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HEADQUARTERS UNITED STATES AIR FORCE  
WASHINGTON DC

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MEMORANDUM FOR DISTRIBUTION C  
MAJCOMs/FOAs/DRUs

FROM: HQ USAF/JA  
1420 Air Force Pentagon  
Washington DC 20330-1420

SUBJECT: Air Force Guidance Memorandum to AFI 51-202, *Nonjudicial Punishment*

By Order of the Secretary of the Air Force, this Air Force Guidance Memorandum implements changes to AFI 51-202, *Nonjudicial Punishment*. Compliance with this Memorandum is mandatory. To the extent its directions are inconsistent with other Air Force publications, the information herein prevails, in accordance with AFI 33-360, *Publications and Forms Management*.

This guidance memorandum removes the requirement that nonjudicial punishment forms must be completed in blue or black ink and permits electronic signatures in place of the wet signatures when it is impracticable to obtain a wet signature. Additionally it transfers the Correctional Custody program from AFI 31-208, *Correctional Custody (Remotivation) Program* to Attachment 5.

This Memorandum becomes void after one year has elapsed from the date of this Memorandum, or upon incorporation by interim change to, or rewrite of AFI 51-202, whichever is earlier.

JEFFREY A. ROCKWELL  
Lieutenant General, USAF  
The Judge Advocate General

Attachment:  
Modifications to AFI 51-202

Attachment  
Modifications to AFI 51-202

1.3.1. \*Changed to read: AF Form 3070, *Record of Nonjudicial Punishment Proceedings*. Although referenced generally as “AF Form 3070,” this form has been subdivided based on grade and status. With regard to AF Forms 3070A-C, the form used is based on the grade of the member at the time NJP is initiated and all necessary portions of the form must be completed. (T-1) For example, if a member is an E-6 at initiation of NJP and is found to have committed one or more offenses as listed on the AF Form 3070B, the AF Form 3070B must be completed, to include the senior noncommissioned officer (SNCO) selection record decision, even if the member is reduced below the grade of E-6 as a result of the NJP. (T-1) AF Forms 3070D-E are specific to members of the Air Reserve Component in the grade of TSgt-CMSgt and Officers, respectively. AF Forms 3070D-E do not include selection record notifications or elections, as the Air Reserve Component (ARC) does not use selection records.

3.3.2.2. Changed to read: The date of discovery of the offense is defined as the earlier of the following dates:

3.3.2.2.3. \*Deleted.

3.16.4. Added: Frocked commanders may exercise only that authority associated with their actual pay grade. (T-0) No increased punishment authority is conferred by assumption of the title and insignia of the frocked grade. (T-0)

3.16.5. Added: Officers in the grade of Lieutenant Colonel and below (includes frocked Colonels) may not impose NJP on an officer. (T-1)

4.5.3. \*Changed to read: The member must reflect his or her appeal decision by initialing only one block in item 6a-c of the AF Form 3070, signing the form, and then annotating the date and time signed. (T-3) Non-ARC NCOs in the grade of E-6 and above and officers must also initial the appropriate block in item 6d-e for matters pertaining to their selection record, as applicable. See paragraph 4.8. (T-3)

4.5.3.1. \*Changed to read: The member makes a choice between not appealing, appealing and submitting matters in writing, or appealing and not submitting matters in writing. Non-ARC NCOs in the grade of E-6 and above and officers may choose not to appeal and may still choose to submit matters pertaining to their selection record, as applicable.

4.8.4. \*Changed to read: The GCMCA SJA shall simultaneously forward the final decision memorandum regarding the selection record and any related correspondence (the commander's intent to file memorandum and individual statements, if any) with the original record of NJP for inclusion in the member's master personnel record group. (T-1) The ARC does not utilize SNCO Selection Records.

6.4.3. \*Changed to read: For enlisted members in the grade of E-6 and above, the commander must make a decision regarding selection record processing, and the member must acknowledge that he or she has been informed of the decisions before the servicing SJA may complete the

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legal review. (T-1) For all officers, the commander must make a decision regarding selection record processing and the member must acknowledge that or she has been informed of the decision before the servicing SJA may complete the legal review. (T-1) If the commander elects not to file the NJP in the member's selection record, the NJP is not forwarded for superior commander review. The ARC does not use Officer Selection Records or SNCO Selection Records.

**6.9.3. Changed to read: SJA Coordination Requirement.** The law enforcement agency (e.g., AFOSI or Security Forces) coordinates with the SJA or government counsel to determine whether the probable cause requirement is met for a qualifying offense. See paragraphs 6.9.1 and 6.9.2. The SJA or government counsel must ensure they understand the applicable indexing requirements in order to advise AFOSI or Security Forces for purposes of criminal history indexing. (T-0) SJAs must also ensure that completed 3070s for qualifying offenses are distributed to SFS, AFOSI, and the Air Force Indexing Cell to ensure that the correct disposition is listed in the record. (T-1) Failure to do so will result in the FBI having inaccurate information and reporting such information in response to law enforcement queries.

\*Delete Section 6G and replace with the following:

**\*Section 6G—Signatures**

**6.17. \*Form Completion.** All NJP forms (AF Forms 3070, 3212, and 366) must be signed to be complete. (T-1) All NJP forms should be signed in wet ink. If an individual is unable to wet sign the NJP form, the form may be completed with electronic signatures.

6.17.1. \*For purposes of this section, an electronic signature may be accomplished through personal identification numbers, digital signatures, smart cards or biometrics. See AFI 33-322, *Records Management and Information Governance Program*.

6.17.2. \*An electronic signature is satisfied by using the digital signature feature in Adobe Acrobat, which binds the individual's Common Access Card credentials to the digital signature.

6.17.3. \*A member, by electing to waive his or her right to a court-martial and accept nonjudicial punishment proceeding, acknowledges and accepts that electronic signatures may be used on the NJP form.

6.17.4. \*An individual using electronic signatures demonstrates intent to sign the NJP form and consent to be bound by their electronic signature.

6.17.5. \*The electronic signature must be affixed directly to the NJP form such that it cannot be altered or removed.

6.17.6. \*See the Virtual Military Justice Deskbook for guidance when completing an NJP form with electronic signatures.

**Attachment 3.** Changed to read:

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### FORMAT OF NONJUDICIAL PUNISHMENTS

The following are examples of the appropriate format for punishment language. See paragraph 3.14.

1. Reduction to the grade of \_\_\_\_\_, with new date of rank of \_\_\_\_\_. (See Note 1)
2. Forfeiture of \$ \_\_\_\_\_ pay. [If 1 month] (See Note 2)
3. Forfeiture of \$ \_\_\_\_\_ pay per month for 2 months. (See Note 2)
4. \_\_\_\_\_ days correctional custody.
5. Arrest in quarters for \_\_\_\_\_ days.
6. Restriction to the limits of (state the area) for \_\_\_\_\_ days.
7. \_\_\_\_\_ days extra duty.
8. Reprimand. No special language is required. The reprimand may be placed on the form or on an attachment.
9. If any of the above punishments are suspended:  
\_\_\_\_\_, suspended through (provide date), after which time it will be remitted without further action, unless sooner vacated.
10. Additional guidance for suspended punishments:
  - a. Sample of two grade reduction with one grade suspended: "Reduction to the grade of Airman, with reduction below Airman First Class is suspended until \_\_\_\_\_, after which time it will be remitted without further action, unless sooner vacated. The new date of rank for Airman First Class is \_\_\_\_\_."
  - b. Sample of suspension of portion of the forfeitures imposed: "Forfeiture of \$\_\_\_\_\_ pay per month for two months. That portion of the forfeitures in excess of \$\_\_\_\_\_ pay per month for two months is suspended until \_\_\_\_\_, after which time it will be remitted without further action, unless sooner vacated."
  - c. Sample of conditional suspension: "Reduction to the grade of Senior Airman, suspended until \_\_\_\_\_, after which time it will be remitted without further action unless sooner vacated. In accordance with MCM, Part V, paragraph 6a(4), this suspension is subject to the additional condition of [(your attending the Alcoholics Anonymous meetings at \_\_\_\_\_ once per week during the period of \_\_\_\_\_ to \_\_\_\_\_) or (your making restitution to \_\_\_\_\_ in the

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amount of \$\_\_\_\_\_ by \_\_\_\_\_) or (your attending financial counseling during the period of \_\_\_\_\_ to \_\_\_\_\_]. (See Note 3)

NOTES:

1. If the reduction in grade is suspended, a new date of rank is not established.
2. State forfeitures in whole dollar amounts. Also, if punishment includes a reduction, whether or not suspended, the forfeitures must be based on the grade to which reduced. See MCM, Part V, paragraph 5c(8). (T-0)
3. The end date for completing the condition must be a date within the period of suspension. (T-0) The condition must be clearly stated and not subject to interpretation. See paragraph 5.4.4. (T-0)

**\*Attachment 5.** Added:

**\*CORRECTIONAL CUSTODY (REMOTIVATION) PROGRAM**

***\*Section A5A—Program Definition and Purpose***

A5.1. **\*Correctional Custody Defined.** Correctional Custody is a nonjudicial punishment option that commanders may impose for offenses under Article 15 of the Uniform Code of Military Justice. It is not confinement, and time served in remotivation is not time lost under Title 10, United States Code, Section 972.

A5.2. **\*Purpose.** Correctional Custody provides commanders a secure setting in which to maintain discipline while reeducating and remotivating Airmen to become productive members of the Air Force. Correctional custody may only be imposed on Airmen of grade E-5 and below.

A5.3. **\*Program Ownership and Evaluation.** Installation commanders own the Correctional Custody programs. An installation commander may decide whether or not a correctional custody program is needed by balancing potential costs and benefits. Programs should be evaluated at least annually to determine whether there is a continued need for the Correctional Custody program.

A5.3.1. **\*Because depriving Airmen of their liberty is a severe punishment, use of this program requires careful consideration.** Installation commanders should consider, among others, the following factors in determining the need for a correctional custody program:

A5.3.1.1. **\*Deterrent to potential entrants.**

A5.3.1.2. **\*Cost of facility, staff, vehicles, and equipment.**

A5.3.1.3. **\*Burden on units providing staff.**

A5.3.1.4. **\*Savings from rehabilitating entrants instead of replacing them.**

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A5.3.1.5. \*Value of work entrants do for the installation.

A5.3.1.6. \*Potential number of entrants.

A5.3.2. \*The installation commander approves local policies and procedures for operating the program and uses referral agencies to counsel/evaluate candidates. The installation commander also uses feedback from the unit commander, referral agencies, and Program Supervisor to evaluate the program's effectiveness.

A5.3.3. \*Determining Success of Remotivation Program on Entrant. The unit commander who imposed correctional custody or superior commander decides if remotivation corrects an entrant's delinquent behavior. Unit commanders track and evaluate an entrant's progress in the program using regular reports from the Program Supervisor and referral agencies. Only the unit commander or a superior commander may terminate correctional custody prior to its expiration.

A5.4. \*Optional Nature of Program. This program is optional. Commanders are not required to maintain a correctional custody program. However, in order to utilize Correctional Custody, the commander must utilize a program which meets the requirements in this instruction.

***\*Section A5B—Correctional Custody Program Facilities***

A5.6. \*Remotivation Housing. Use dormitories or other suitable housing. If quarters for unaccompanied personnel are used, clearly define the program area and make it off limits to people not involved in the program. Use partitions to make rooms in open-bay dormitories. In all cases, consider the need for fire, safety and emergency evacuation before program requirements. Detention cells co-located with law enforcement desks and Air Force Corrections System facilities are not to be used for this program.

A5.7. \*Regional Facilities. If an installation facility is impractical, installations may participate in a regional program. Air Force major commands (MAJCOMs) may determine the need for regional facilities. If the installation belongs to a separate MAJCOM, develop support agreements to define responsibilities.

***\*Section A5C—Operating a Remotivation Area***

A5.8. \*Remotivation Plan. The installation commander determines whether to establish the program. If established, the installation commander is responsible for the program and designates a Program Supervisor for the program. The Program Supervisor will develop a local plan governing its operation in coordination with the Staff Judge Advocate (SJA). (T-1) The installation commander will review and approve the installation's program plan. (T-1) Security Forces and legal office personnel shall not serve as the Program Supervisor.

A5.8.1. \*The plan should include the following:

A5.8.1.1. \*Purpose and policy.

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A5.8.1.2. \*Rehabilitation programs and responsibilities of referral agencies.

A5.8.1.3. \*Standardized procedures for in-processing.

A5.8.1.4. \*Daily schedules.

A5.8.1.5. \*Responsibilities of unit commanders, Program Supervisors and staff.

A5.8.1.6. \*Training and work programs, including how much “extra” duty to permit.

A5.8.1.7. \*Guidelines for supervising and treating entrants.

A5.8.1.8. \*Local procedures for secure storage, issue, accountability, and destruction of entrant medications. The program staff strictly controls medical supplies and medication, documents all medication issues and dispositions, and files completed records in an entrant’s established folder.

A5.8.2. \*The training and work plan may include military, physical or technical training, productive work or other duties. Program entrants may be assigned details. Develop procedures for returning entrants to their normal duty sections for parts of the day as soon as possible after entry into the program.

A5.8.3. \*Installation commanders incorporate a physical training routine at least three times a week into the entrant’s curriculum. Prior to entering the program, the Airman’s unit ensures the host medical facility conducts a health assessment. (T-1) The purpose of the assessment should focus on the entrant’s fitness to complete program requirements.

A5.8.4. \*Unit Commander’s Progress Review. Commanders maintain command authority for assigned personnel in the program, regardless of location. If imposed, the commander or first sergeant reviews the progress of the entrant weekly. Commanders must get base referral agencies to evaluate and contribute to the correction process by making referral appointments for entrants. (T-1) Commanders are responsible for providing escorts to required referral appointments. Commanders may mitigate, remit, or suspend punishment for the following reasons:

A5.8.4.1. \*The entrant’s behavior is believed to have been corrected;

A5.8.4.2. \*Remotivational treatment is no longer appropriate; and/or

A5.8.4.3. \*Administrative discharge actions have begun.

A5.9. \*Staffing. The installation commander determines the size of the program staff and carefully screens and selects NCOs to make sure they are responsible, dependable, mature, and meet all quality indicators. Law enforcement personnel, such as Security Forces staff, and legal office personnel are not assigned as staff members or are part of the program.

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A5.9.1. \*A panel consisting of a Field Grade Officer, a Chief Master Sergeant, and a First Sergeant will be appointed by the installation commander to screen and recommend NCOs for Remotivation staff duties. (T-1) The installation commander may screen and detail additional staff from units with members assigned to the program when the staff temporarily needs them. Do not use corrections or confinement staff personnel to manage or staff a program facility. All NCOs appointed to the program staff retain their primary AFSC. The Field Grade Officer serves as the Program Supervisor.

A5.9.2. \*The Program Supervisor will:

A5.9.2.1. \*Administer the program under the supervision of the installation commander and coordination with the installation's servicing staff judge advocate. (T-2)

A5.9.2.2. \*Oversee buildings and equipment. (T-2)

A5.9.2.3. \*Make sure correction is fair and effective. (T-2)

A5.9.2.4. \*Report any misconduct that may warrant disciplinary action to the responsible commander. (T-2)

A5.9.2.5. \*Supervise entrants in the program area or assigned duties that are directly monitored. (T-2)

A5.9.3. \*The NCOIC of the Program Staff reports directly to Program Supervisor.

A5.9.4. \*Prior to assigning members to the program staff, the installation commander must require each individual have proper CPR and other first-aid related training as determined by MDG/CC. (T-2)

A5.9.5. \*The installation commander must have provisions established for female candidates when assigned. (T-1) This will include, at a minimum:

A5.9.5.1. \*At least one female staff member physically present when there is a female candidate in correctional custody. (T-1) Note: This requirement likely necessitates having multiple female staff members to ensure a female staff member is available 24 hours a day.

A5.9.5.2. \*Separate female restrooms and shower facilities. (T-1)

A5.9.5.3. \*Separate female sleeping quarters. (T-1)

A5.10. \*Training and Work Programs. Allow entrants to train and work in their own units as they progress in the program. Each unit supervises entrants attached to it for training or work and designs duties so entrants meet performance standards in their AFSC by the end of the program.



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A5.10.1. \*Supervisors of regional program facilities will designate work and training units for candidates, thus returning candidates to their AFSC whenever possible. (T-2)

A5.10.2. \*Each facility uses offices such as base legal, a local PME Academy, and the Military Equal Opportunity office to educate entrants on professional military subjects.

A5.11. \*Supervising Candidates. Supervise entrants at all times in the program area, and know where they are at other times. Program Supervisors and staff will not carry weapons or use any form of personal restraints, such as handcuffs. (T-1) Staff members must abide by the following standards when dealing with entrants: (T-1)

A5.11.1. \*Act in accordance with the requirements of Part V, Manual for Courts-Martial and this Instruction.

A5.11.2. \*The following aspects of program staff member behavior require special emphasis and the Program Supervisor immediately reviews any violations:

A5.11.2.1. \*Personal dignity of all individuals is observed and any act or work assignment that demeans, degrades, humiliates or serves only to embarrass an individual is expressly prohibited.

A5.11.2.2. \*Physical abuse, hazing, bullying, use of unnecessary force, and any form of corporal punishment by staff is prohibited. The use of profanity by staff is prohibited. Striking a candidate is prohibited. Laying hands upon candidates is prohibited except in self-defense, to prevent serious injury to others or the entrant, to prevent serious damage to property, to effect an authorized search, or to quell a disturbance. In such cases, the amount of force used is the least amount necessary to bring the situation under control.

A5.11.2.3. \*Sexual harassment is prohibited. This behavior interferes with an individual's performance and creates an intimidating, hostile and offensive environment. Whether the individual is an entrant or staff member, sexual harassment denies the individual respect and dignity, and is contrary to the mission of the facility.

A5.12. \*Disciplining Candidates. The commander who imposes punishment also disciplines entrants who commit violations while in the program. The installation commander may empower the Program Supervisor to withdraw in-house privileges from entrants who commit minor violations. The Program Supervisor must establish disciplinary guidelines. (T-2)

A5.13. \*Clothing for Candidates. Program entrants must wear the prescribed Air Force uniform in the program area and in training or work programs. (T-3) Do not use special or distinctive uniforms, armbands, or other devices to identify entrants.

**BY ORDER OF THE SECRETARY  
OF THE AIR FORCE**

**AIR FORCE INSTRUCTION 51-202**

**6 MARCH 2019**



**Law**

**NONJUDICIAL PUNISHMENT**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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(Mr. Gregory Girard)

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This instruction implements Air Force Policy Directive (AFPD) 51-2, *Military Justice, Individual Military Counsel, and Other Criminal Proceedings*. Specifically, this instruction addresses Article 15 of the Uniform Code of Military Justice (UCMJ), Part V of the Manual for Courts-Martial (MCM). This instruction applies to all Regular Air Force (RegAF) military personnel; and members of the United States Air Force Reserve (USAFR) and Air National Guard (ANG) while in Federal service (i.e., under Title 10 United States Code (U.S.C.), referred to as "Title 10 status" herein). Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) in the Air Force Records Information Management System. Refer recommended changes about this publication to the office of primary responsibility (OPR) using Air Force (AF) Form 847, *Recommendation for Change of Publication*. Route AF Forms 847 from the field through major command (MAJCOM) functional managers. The authorities to waive wing/unit level requirements in this publication are identified with a Tier ("T-0, T-1, T-2, T-3") number following the compliance statement. See Air Force Instruction (AFI) 33-360, *Publications and Forms Management*, for a description of the authorities associated with the tier numbers. Submit requests for waivers through the chain of command to the appropriate tier waiver approval authority, or alternately, to the requestor's commander for non-tiered compliance items. This publication may not be supplemented or further implemented/extended without the prior, written approval of Air Force Legal Operations Agency, Military Justice Division (AFLOA/JAJM). This Instruction requires the collection and or maintenance of information protected by D. The applicable SORN F051 AFJA I, *Military Justice and Magistrate Court Records*, is available at: <http://dpclo.defense.gov/Privacy/SORNs.aspx>.

## ***SUMMARY OF CHANGES***

This document has been substantially revised and needs to be completely reviewed. Changes include adding a “Roles and Responsibilities” paragraph; clarifying recall procedures for ANG and USAFR members; changing the applicability of AF Forms 3070A, *Record of Nonjudicial Punishment Proceedings (AB thru SSgt)*, and 3070B, *Record of Nonjudicial Punishment Proceedings (TSgt thru CMSgt)*, to reflect the fact that enlisted members in the grade of E-6 meet a promotion board; including legal office responsibilities regarding NJP and criminal indexing; promulgating ANG-specific AF Forms 3070D, *Record of Nonjudicial Punishment Proceedings (TSgt thru CMSgt) – Air National Guard Only*, and AF Form 3070E, *Record of Nonjudicial Punishment Proceedings (Officer) – Air National Guard Only*; clarifying Privacy Act redaction requirements; clarifying processing requirements when commanders decide not file NJP in selection records or unfavorable information files; removing the requirement to retype the recoupment statement in AF Form 3070; and correcting addresses for submission of completed nonjudicial punishment (NJP) records.

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## Chapter 1

### OVERVIEW AND ROLES AND RESPONSIBILITIES

#### 1.1. Overview.

1.1.1. Purpose. NJP provides commanders with an essential and prompt means of maintaining good order and discipline. It is intended to promote positive behavior changes in service members without the stigma of a court-martial conviction. See MCM, Part V, paragraphs 1b, 1c, and 1e.

1.1.2. This instruction implements requirements for the administration of NJP in the Air Force. The primary source of direction and guidance on NJP is the MCM, Part V. It establishes requirements, rules and procedures for imposing NJP on members of the Air Force.

#### 1.2. Roles and Responsibilities.

##### 1.2.1. Commanders shall:

1.2.1.1. Report NJP actions on colonel selects and above to the Secretary of the Air Force, Inspector General, Senior Official Inquiries Directorate (SAF/IGS) (for general officers) or Secretary of the Air Force, Inspector General, Complaints Resolution Directorate (SAF/IGQ) (for colonels and colonel selects) when initiated and when final action is complete, in accordance with AFI 90-301, *Inspector General Complaints Resolution*. (T-1)

1.2.1.2. Coordinate with the USAFR parent organization prior to initiating NJP action against a USAFR member assigned or attached to the commander's unit. (T-2)

1.2.1.3. Coordinate with the ADCON commander to whom the ANG member is assigned when on Title 10 orders or 201 Mission Support Squadron (MSS) Commander prior to initiating NJP action against an ANG member assigned or attached to the commander's unit, whichever is applicable. (T-2) See paragraph 2.11.

1.2.1.4. Initiate and administer NJP actions for members of the commander's unit after consultation with the servicing Staff Judge Advocate (SJA). (T-2)

**1.2.2. The General Court-Martial Convening Authority (GCMCA) shall supervise all NJP within the convening authority's command.**

**1.2.3. The General Court-Martial Convening Authority Staff Judge Advocate shall:**

1.2.3.1. Conduct supervisory SJA review of all NJP within the command.

1.2.3.2. Forward the original NJP for filing in the master personnel record group.

**1.2.4. The Servicing Staff Judge Advocate shall:**

1.2.4.1. Advise commanders on all legal aspects of NJP, both substantive and procedural.

1.2.4.2. Conduct legal sufficiency review on NJP after the conclusion of all appeals and unfavorable information file (UIF) and selection record decisions. (T-1) See paragraph 6.5.



1.2.4.3. Forward a copy of all final AF Forms 3070, 366, *Record of Proceedings of Vacation of Suspended Nonjudicial Punishment*, and 3212, *Record of Supplementary Action Under Article 15, UCMJ*, to the local Air Force Office of Special Investigations (AFOSI) detachment, local Security Forces (SFS/S2I), and AFOSI's Warfighting Integration Directorate (AFOSI/XI), in accordance with Section 6D of this instruction. (T-1) This satisfies the legal office's requirements with regard to criminal titling and indexing in accordance with 18 U.S.C. § 922; Department of Defense Instruction (DoDI) 5505.11, *Fingerprint Card and Final Disposition Report Submission Requirements*, and DoDI 5505.14, *Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations, Law Enforcement, Corrections, and Commanders*. See Section 6D.

1.2.4.4. Advise commanders on their responsibilities regarding criminal indexing and DNA collection related to NJP. (T-1) See Section 6D.

**1.2.5. Military Personnel Flight shall take appropriate personnel actions required upon receipt of NJP records.** (T-1)

**1.2.6. Accounting and Finance Office (AFO) shall take appropriate finance actions upon receipt of NJP records.** (T-1)

**1.2.7. Air Force Office of Special Investigations and Security Forces Office of Investigation shall upon receipt of completed AF Forms 3070, 366 and 3212, update criminal record history and disposition data in accordance with 18 U. S.C. § 922, DoDI 5505.11, and DoDI 5505.14.** (T-0)

**1.3. Forms.** Use the following forms to record NJP actions:

1.3.1. AF Form 3070, *Record of Nonjudicial Punishment Proceedings*. Although referenced generally as "AF Form 3070", this form has been subdivided based on grade and status. With regard to AF Forms 3070A-C, the form used is based on the grade of the member at the time NJP is initiated and all necessary portions of the form must be completed. (T-1) For example, if a member is an E-6 at initiation of NJP and is found to have committed one or more offenses as listed on the AF Form 3070B, the AF Form 3070B must be completed, to include the senior noncommissioned officer (SNCO) selection record decision, even if the member is reduced below the grade of E-6 as a result of the NJP. (T-1) AF Forms 3070D-E are specific to members of the ANG in the grade of TSgt-CMSgt and Officers, respectively. AF Forms 3070D-E do not include selection record notifications or elections, as the ANG does not use selection records.

1.3.1.1. AF Form 3070A, *Record of Nonjudicial Punishment Proceedings (AB – SSgt)*. : This form is also for use by the ANG for personnel in the grades of AB—SSgt.

1.3.1.2. AF Form 3070B, *Record of Nonjudicial Punishment Proceedings (TSgt – CMSgt)*.

1.3.1.3. AF Form 3070C, *Record of Nonjudicial Punishment Proceedings (Officers)*.

1.3.1.4. AF Form 3070D, *Record of Nonjudicial Punishment Proceedings (TSgt – CMSgt) – Air National Guard Only*.

1.3.1.5. AF Form 3070E, *Record of Nonjudicial Punishment Proceedings (Officers) – Air National Guard Only*.

1.3.2. AF Form 366, *Record of Proceedings of Vacation of Suspended Nonjudicial Punishment*.

1.3.3. AF Form 3212, *Record of Supplementary Action under Article 15, UCMJ*.

## Chapter 2

### AUTHORITIES, LIMITATIONS ON IMPOSITION OF NONJUDICIAL PUNISHMENT, AND JURISDICTION

#### *Section 2A—Authority to Impose Nonjudicial Punishment*

**2.1. Commander's Authority to Impose NJP.** The following personnel are authorized to impose NJP:

2.1.1. A commander of an Air Force unit.

2.1.2. Commander, Air Force Forces, which is an officer designated from the U.S. Air Force who serves as the commander of all U.S. Air Force forces assigned and attached to the U.S. Air Force component in a joint or combined operation. See Air Force Core Doctrine, Volume III, *Command*.

2.1.3. Commanders of detachments, headquarters and squadron sections, and Air Force element sections, if properly appointed to command. See MCM, Part V, paragraph 2; AFI 38-101, *Air Force Organization*; and AFI 51-509, *Appointment to and Assumption of Command*.

2.1.4. The Senior Air Force Officer (SAFO) in the headquarters staff organization of a unified command, subordinate unified command, specified command, joint task force, combined command, or combined task force, with respect to Air Force members in the organization. Also, the SAFO in the Air Force element of an activity outside the Air Force, as defined in Attachment 1, with respect to Air Force members in the activity. This is true even if the AFELM has not been formally designated as a unit and the SAFO has not been formally appointed to command. See AFI 51-509.

2.1.4.1. The SAFO must be an officer otherwise eligible to command under AFI 51-509. (T-1)

2.1.4.2. If the Air Force element of the staff organization is designated to function as a unit pursuant to AFI 38-101, and an Air Force element commander has been appointed to command by superior competent authority in accordance with AFI 51-509, the Air Force element commander should exercise NJP authority instead of the SAFO. See paragraph 4.2.4. However, the exercise of NJP authority by an Air Force element commander does not divest the SAFO of concurrent authority to exercise NJP authority under paragraph 4.2.4.

2.1.4.3. SAFOs may delegate their authority under Article 15, UCMJ, to the next senior Air Force officer or another principal assistant who is generally equivalent to a vice commander.

2.1.5. The commander of an Air Force element, as appointed by superior competent authority in accordance with AFI 51-509. This includes the Air Force element of a headquarters unit in a joint or combined command or task force, as well as the Air Force element of an activity outside the Air Force.

2.1.6. The commander of Air Force District of Washington (AFDW/CC), and the commanders of subordinate units when designated by AFDW/CC, for Air Force members assigned to the Air Force element of an activity outside the Air Force. This NJP authority is held concurrently with element commanders and SAFOs of activities outside the Air Force.

2.1.7. The Superintendent of the U.S. Air Force Academy and the commandant of a school that is designated as an Air Force unit.

2.1.8. The commander of a host command, and the commanders of subordinate units when designated by the host commander, providing support to a tenant organization pursuant to AFI 25-201, *Intra-Service, Intra-Agency, and Inter-Agency Support Agreements Procedures*.

2.1.9. Joint force commanders of joint activities established under the criteria of Joint Publication 1, *Doctrine for the Armed Forces of the United States*.

2.1.10. Multiservice U.S. Armed Forces commanders in combined commands, combined task forces, and activities outside the Air Force, as defined in Attachment 1, to whose command members of the Air Force are assigned or attached.

**2.2. NJP Authority in a Joint Force.** The joint force commander has authority to impose NJP on Air Force members assigned or attached to the command unless such authority is withheld by a superior joint commander. See Joint Publication 1. Air Force members are "assigned or attached to the command" of a joint force commander if they are assigned or attached to the joint staff organization or to a unit which is assigned or attached to the joint force.

2.2.1. Joint force commanders will use this instruction when imposing NJP on Air Force members. **(T-0)** See Joint Publication 1. The appropriate Air Force commander should normally handle matters that involve only the Air Force and occur within the military jurisdiction of the Air Force.

2.2.2. If NJP is imposed on an Air Force member by a commander of a different service, the decisions as to collateral administrative actions (e.g., entry into UIF or selection record) will be made by the SAFO or commander of the Air Force element in the Joint Command. **(T-1)** If neither is available nor senior to the commander who imposed NJP, the decision is made by a GCMCA of the Air Force host command who is senior to the commander who imposed punishment, or by a GCMCA senior to the commander who imposed punishment as designated by the respective Air Force Host Command's MAJCOM commander. **(T-1)**

**2.3. Procedures for Imposing NJP in a Joint Force.** If the joint force commander decides to initiate NJP against an Air Force member, the joint force commander should coordinate with the appropriate Air Force commander before taking action.

2.3.1. The appropriate Air Force commander immediately notifies the servicing Air Force SJA. See AFI 25-201 and para 2.2 of this instruction. The servicing Air Force SJA:

2.3.1.1. Coordinates with the SJA assigned to the joint force commander.

2.3.1.2. Advises on the required application of Air Force regulations in the administration and processing of NJP actions, and assists the joint force SJA in ensuring the NJP action is properly completed by the joint force commander.

2.3.1.3. Enters the NJP proceedings into the Automated Military Justice Analysis and Management System (AMJAMS) and ensures required personnel and finance actions are taken. See paragraphs 4.8 and 6.4.2 to identify the Air Force officer responsible for deciding selection record and UIF actions.

2.3.2. If an Air Force judge advocate is assigned to the joint force commander, he or she may provide advice to the joint force SJA in lieu of the the host command's servicing SJA. The servicing Air Force SJA shall be notified of the occasion and nature of the advice and action and shall remain responsible for the required AMJAMS entries, personnel records and finance actions. (T-1)

2.3.3. If the joint force commander determines NJP authority over an Air Force member should be left to the discretion of Air Force authorities, the appropriate Air Force commander, as identified in paragraph 2.1, may take action. NJP shall be processed through the servicing Air Force SJA for the host command. (T-1)

2.3.4. Commander and member must both be on Title 10 orders for action to be taken (e.g., if member is ANG or USAFR, they must currently be on Title 10 orders or must be recalled to Title 10 status before NJP may be initiated). (T-0) See paragraphs 2.11 and 2.12.

**2.4. Procedures for Multiservice Commanders.** The multiservice commander, when imposing NJP on an Air Force member, follows this instruction, including the guidance applicable to joint force commanders in paragraphs 2.2 and 2.3.

**2.5. Delegation of Authority.** Commanders who are general officers or who exercise general court-martial convening authority may delegate their powers under Article 15, UCMJ, to a principal assistant, provided that principal assistant is a military officer. See AFPD 51-2, *Military Justice, Individual Military Counsel, and Other Criminal Proceedings*. The principal assistant then assumes the commander's authority to impose NJP on members of the command who are subordinate to the principal assistant. The principal assistant does not assume the commander's rank for punishment purposes, but acts on virtue of the principal assistant's own rank and the commander's delegation of authority. Delegation of such authority must be in writing or incorporated in a permanent directive, and should be addressed to the principal assistant by duty title, rather than by name, except as described in paragraph 2.1.4.3. (T-1) The original written delegation or directive shall be filed in the office of the SJA servicing the commander concerned. (T-1) A delegation made by duty title continues in effect when a new principal assistant occupies the position or when command changes to a new commander, unless or until expressly rescinded. A commander delegating NJP punishment authority also retains the authority to administer in the commander's own right.

### ***Section 2B—Limitations on Commander's Authority***

**2.6. Limitations on Commanders' Authority.** Commanders may only impose NJP on members of their command.

2.6.1. "Members of their command" include those assigned to the element or organization commanded, or members on temporary duty (TDY) with, or otherwise attached to, the element or organization. A commander may exercise NJP authority on a member not on TDY orders if the commander exercises the usual responsibilities of command over the member. A TDY commander has concurrent authority with the commander of the member's element or

organization of permanent assignment. In these cases, the commander should confer whenever possible with the member's parent organization commander about which commander should initiate action. If the member is in the USAFR, prior coordination with the member's parent organization commander is required. (T-2) See paragraph 2.12. If the member is in the ANG, prior coordination with the member's assigned Title 10 ADCON commander is required. (T-2) See paragraph 2.11. In order for a commander to initiate NJP on a member of the USAFR or ANG, the commander and member must both be on Title 10 status. (T-1)

2.6.2. A commander will not impose NJP on a member after that member has been transferred from the command. (T-1) If NJP was initiated but punishment was not imposed prior to the transfer, the initiating commander may forward the record of proceeding to the gaining commander for disposition. If a member transfers after punishment has been imposed but before the action is complete, the action (including adjudication of any appeal) will be completed by the imposing commander's chain of command. (T-1) In the event either of these scenarios should occur, refer to paragraph 3.9 to determine what notification, if any, should be provided to the member receiving NJP. (T-1)

## **2.7. Commander as Victim or Witness in Commander's Personal Capacity.**

2.7.1. **Commander as Victim.** If a commander is the victim of the crime for which the NJP is being contemplated in his or her personal capacity (e.g., victim of assault or larceny) as opposed to official capacity (e.g., violation of commander's order), that commander should forward the report of the incident to the next higher commander for review and appropriate action.

2.7.2. **Commander as Witness.** A commander who has witnessed misconduct or events related to misconduct is not barred from imposing NJP for the witnessed misconduct. In these instances, a commander should document his or her observations in a memorandum for record and include it as part of the evidence. If the commander's involvement clearly precludes fair and impartial judgment, that commander should forward the report of the incident to the next higher commander for review and appropriate action.

**2.8. Withholding Authority.** A commander may withhold from any subordinate commander all or part of the authority—including the authority to impose NJP for specific types of offenses—that the subordinate would otherwise have under the UCMJ, MCM, or this instruction. When authority is withheld, such action shall be in a clearly defined writing or permanent directive. (T-3) File the original of the letter or directive in the office of the SJA servicing the commander withholding the authority. File a copy in the office of the SJA servicing the commander whose authority has been withheld. Any such withholding remains in effect when a new commander assumes either command, until and unless expressly revoked by the superior commander. Any such action should be addressed by duty title and not by name.

**2.9. Cases Involving State or Foreign Prosecution Interest.** Only the Secretary of the Air Force may approve initiation of NJP action against a member who has been previously tried by a state or foreign court for the same act or omission, regardless of the outcome.

### *Section 2C—Jurisdiction*

**2.10. Host Command Jurisdiction.** All members of a tenant unit or Air Force element, whether designated a unit or not, are attached to the host command and its appropriate subordinate and higher commands for the exercise of authority under Article 15, UCMJ. However, commanders of tenant units, and other Air Force element officers authorized to impose NJP pursuant to this instruction, retain concurrent authority to take such action.

2.10.1. Any appeal is made to the next superior authority in the command channel of the officer who imposes punishment or to the appeal authority otherwise designated by AFLOA/JAJM. See AFPD 51-2.

2.10.2. Regardless of who imposes punishment or acts on the appeal, the action is administratively processed through the host command's SJA.

**2.11. Jurisdiction over Air National Guard Members.** Jurisdiction attaches when ANG members are on Title 10 orders. However, because ANG Title 10 orders cannot ordinarily be administratively extended for investigations into UCMJ violations or to complete actions to address UCMJ violations, the supporting RegAF legal office contacts the legal office supporting the ANG Readiness Center, the National Guard Bureau (NGB), Office of the Staff Judge Advocate (NGB/JA) to discuss the timing of exercising jurisdiction and options for maintaining jurisdiction. The process for obtaining jurisdiction over ANG members varies based on the status of the member at the time the commander intends to initiate NJP.

2.11.1. Air National Guard Members in Title 10 Status. When an ANG member commits misconduct when in Title 10 status and attached to a RegAF unit, the commander of that unit, if otherwise authorized to initiate NJP over that member, initiates NJP. The commander coordinates any action with NGB/JA and 201 MSS/CC.

2.11.2. If an ANG member's Title 10 orders have expired and the ANG member has reverted to Title 32 ANG status before UCMJ action commences, the member must be recalled to Title 10 status under 10 U.S.C. § 802(d). (T-0)

2.11.2.1. The servicing legal office of the attached commander with whom the ANG member was performing on Title 10 status at the time of the misconduct contacts NGB/JA, who coordinates with 201 MSS.

2.11.2.2. NGB/JA, in coordination with 201 MSS, identifies the RegAF installation with a servicing legal office that is geographically closest to the member's Title 32 home ANG unit.

2.11.2.3. If, after consulting NGB/JA and the servicing legal office, a decision to initiate NJP is made by the 201 MSS/CC, the servicing legal office identified in paragraph 2.11.2.2 routes a request to recall the member to Title 10 status to one of the following:

2.11.2.3.1. A GCMCA for the host command of the nearest RegAF wing;

2.11.2.3.2. A GCMCA for the RegAF unit to which the member was attached for duty (supported commander);

2.11.2.3.3. A GCMCA for the RegAF unit to which the member was attached for training; or

- 2.11.2.3.4. Any GCMCA pursuant to an agreement with or a request by 201 MSS/CC.
- 2.11.3. ANG Recall Process.
- 2.11.3.1. The GCMCA evaluates recall decisions using the probable cause standard;
- 2.11.3.2. The GCMCA authorizes the recall to Title 10 status for UCMJ action against the member by signing a memorandum prepared by the GCMCA legal office;
- 2.11.3.3. The Air Force Director of Manpower, Organization and Resources, (AF/A1M) provides the mandays for the orders under 10 U.S.C. § 802(d);
- 2.11.3.4. The member's home station creates the Title 10 order(s);
- 2.11.3.5. If necessary, the GCMCA who recalls the member to Title 10 status funds travel-related entitlements in accordance with the Joint Travel Regulations. *See Joint Federal Travel Regulations.*
- 2.11.3.6. The member is ordered to Title 10 status and scheduled to appear at the home ANG unit for NJP processing and remains in Title 10 status until the conclusion of that process.
- 2.11.3.7. Requirement that Commander be in Title 10 Status. The commander initiating the Article 15 must be on Title 10 status when completing the AF Form 3070, initiating NJP, making an appeal or selection record decision, and forwarding the NJP for appellate or reviewing authority determination. (T-1) The commander must be in Title 10 status when the member receiving NJP makes a personal presentation. (T-1) See paragraph 3.12.
- 2.11.3.8. Execution of Punishment. Members must be in Title 10 status in order for punishment to be executed. (T-1) In the event an ANG member's Title 10 orders have expired and the member has reverted to Title 32 status before execution of punishment, the punishment does not take effect until the member is returned to Title 10 status.

**2.12. Jurisdiction over Air Force Reserve Members.** Jurisdiction attaches when Air Reserve members are on Title 10 orders.

- 2.12.1. When an Air Force Reserve member commits misconduct while in Title 10 status and attached to a RegAF unit, the commander of that unit, if otherwise authorized to initiate NJP over that member, initiates NJP. The commander coordinates any action with the member's Air Force Reserve chain of command. (T-1)
- 2.12.2. If an Air Force Reserve member's Title 10 orders terminate before UCMJ action commences, the member must be recalled to Title 10 status under 10 U.S.C. § 802(d) or the commander initiating the NJP must wait until the member is otherwise in Title 10 status. (T-1)
- 2.12.3. Subject to the coordination requirement of paragraph 2.12.1, the following individuals may recall a Reserve member to Title 10 status:
- 2.12.3.1. A GCMCA for the RegAF unit to which the member is attached for training purposes;
- 2.12.3.2. A GCMCA for the RegAF unit in which the member performed Federal service and/or was on Title 10 status when the offense occurred;



2.12.3.3. A GCMCA for the RegAF host unit, as designated in the applicable host-tenant support agreement, if the member is assigned to an Air Force Reserve unit for training purposes or was attached to such a unit when the offense occurred;

2.12.3.4. AFRC/CC, 4 AF/CC, 10 AF/CC, or 22 AF/CC for members assigned or attached to their respective commands; or

2.12.3.5. A GCMCA for the RegAF host command. See Article 2(d), UCMJ.

**2.13. Requirement that Commander be in Title 10 Status.** The commander initiating the Article 15 must be in Title 10 status when completing the AF Form 3070, initiating NJP, making an appeal or selection record decision, and forwarding the NJP for appellate or reviewing authority determination. (T-1) The commander must be in Title 10 status when the member receiving NJP makes a personal presentation. (T-1) See paragraph 3.12.

**2.14. Jurisdiction Over United States Air Force Academy (USAFA) Cadets.** Only the Commandant of Cadets, a superior commander at USAFA (i.e., the Superintendent), or a commander designated by the Secretary of the Air Force may impose NJP on USAFA cadets.

**2.15. Jurisdiction Over Air Force Legal Operations Agency (AFLOA) Personnel.**

2.15.1. Air Force Legal Operations Agency Jurisdiction. The following members assigned to AFLOA are not attached to a host command but are assigned to AFLOA for jurisdiction under Article 15, UCMJ:

2.15.1.1. Circuit Trial Counsel, Circuit Defense Counsel, and Circuit Special Victims' Counsel;

2.15.1.2. Area Defense Counsel and defense paralegals; and

2.15.1.3. Special Victims' Counsel and Special Victims' Paralegals. See AFPD 51-2.

2.15.2. Air Force Legal Operations Agency and Air Force District of Washington Concurrent Jurisdiction. All AFLOA personnel other than those listed in paragraph 2.15.1 are under the concurrent jurisdiction of AFLOA/CC and AFDW/CC for NJP purposes.

**2.16. Jurisdiction Over Military Judges.** All military judges, to include trial and appellate judges, are assigned to the Air Force District of Washington (AFDW) for jurisdiction under Article 15, UCMJ.

**2.17. Exceptions to Support Agreements.** When a support agreement differing from the construct outlined in this instruction is necessary or desirable, the contents and conditions of the support agreement must be documented at the GCMCA level or higher. (T-2)

## Chapter 3

### PROCEDURES FOR INITIATING AND IMPOSING NONJUDICIAL PUNISHMENT

#### *Section 3A—Responsibilities of the Initiating Commander*

**3.1. General Responsibilities.** A commander who initiates NJP action and imposes punishment acts on the basis of information the commander determines relevant. The commander's action must be temperate, just, and conducive to good order and discipline.

**3.2. Notice of Recoupment of Benefits.** Concurrent with initiation of the NJP action, the initiating commander must provide written notice to a member who has received educational assistance, special pay, or bonuses concerning the member's obligation to reimburse the Air Force if the member is discharged or involuntarily separated for misconduct. (T-0) The statement of understanding regarding recoupment is inserted in included on the AF Form 3070, page 3. The member's signature in item 3 constitutes acknowledgement. Noncompliance with this provision shall not affect the legal sufficiency of the NJP action.

**3.3. Timeliness of Actions.** The impartial and timely administration of military justice helps sustain good order and discipline. NJP should be offered for appropriate offenses as soon as possible after facts that indicate such offenses have been committed become known by the member's commander.

3.3.1. Timelines. Commanders should offer NJP within 21 days of the date of discovery of the offense. Punishment should be served on the member within 9 days of service of the NJP. The Servicing SJA Review should be complete within 9 days of the service of punishment.

3.3.2. SJAs, chiefs of military justice and non-commissioned officers (NCO) in charge (NCOICs) of military justice should regularly analyze AMJAMS data as to each segment of NJP processing they control to determine specific areas for improvement, and implement appropriate management measures to maximize effectiveness and efficiency. The following metrics have been established to assist in expediting the administration of justice:

3.3.2.1. Complete 80% of all NJP actions (Date of Discovery of the Offense through Servicing SJA Review Date) within 39 days.

3.3.2.2. The date of discovery of the offense is defined as follows:

3.3.2.2.1. The date when an Air Force investigative agency (e.g., AFOSI, SFS/S2I, IG), legal office, commander, supervisor, or first sergeant, whichever is first in time, becomes aware of an allegation and a subject has been identified, including when notification is made by civilian authorities;

3.3.2.2.2. In a case involving a Commander Directed Investigation (CDI), the date of discovery of an offense is when a commander is notified of an allegation that an offense has been committed and a subject has been identified, even if that CDI is subsequently turned over to an investigative agency for further investigation; or

3.3.2.2.3. If an allegation is investigated by civilian authorities who have primary jurisdiction or have otherwise asserted jurisdiction, the date jurisdiction is ceded to the Air Force from that civilian authority or the date the civilian authority indicates it will take no further action on the allegation, provided a subject has been identified.

3.3.2.2.4. In all cases, including where additional allegations against an identified subject are discovered, use the earliest date of discovery of all offenses (e.g., if the date of discovery of Offense A is 1 February and the date of discovery of Offense B is 15 February, the date of discovery for purposes of AMJAMS and the NJP metric is 1 February.).

3.3.3. Failure to meet these processing goals does not preclude a commander from initiating NJP proceedings.

**3.4. Standard of Proof.** While no specific standard of proof applies to NJP proceedings, including appeals, commanders should recognize that a member is entitled to demand trial by court-martial, in which case proof beyond a reasonable doubt of each element of every offense by legal and competent evidence is a prerequisite to conviction. Whether such proof is available should be considered before initiating action under Article 15, UCMJ. If such proof is lacking, NJP action is usually not advisable.

**3.5. Providing Evidence to the Member.** After a commander serves the AF Form 3070 on a member, that member and his counsel have a right to examine all statements and other evidence that the commander has examined and intends to rely upon in arriving at a decision as to whether to impose punishment, and the quantum, if any, of punishment to be imposed. Members are normally provided a copy of the documentary evidence unless the matters are privileged, classified, or otherwise restricted by law, regulation, or instruction. Legal offices must redact the personally identifiable information of individuals other than the member to which NJP is being offered prior to releasing matters to the member or defense counsel. (T-1) When releasing Privacy Act material to military defense counsel or members receiving NJP, government counsel must redact Privacy Act information regarding individuals other than the accused. (T-1) An example of this would be social security numbers of individuals providing urinalysis samples, which are listed in an otherwise relevant document which the commander considered in making the NJP decision but which have no relevance to the case. When Privacy Act material is not redacted in material provided to the member or defense counsel, the member or defense counsel, as applicable, should take appropriate steps to guard against improper release of this information.

### ***Section 3B—Initiating Nonjudicial Punishment***

#### **3.6. Initial Considerations.**

3.6.1. After making a preliminary inquiry, the commander consults with the servicing SJA to determine whether NJP is appropriate and, if so, whether the commander can initiate proceedings personally, or should or must refer the matter to a superior commander for action. Such referral is appropriate when the commander cannot impose an appropriate punishment because of the member's grade, or where authority has been withheld. See Table 3.1 and Table 3.2, and paragraph 2.8.

3.6.2. When initiation of NJP action is under consideration, the member's personal data is normally available to the legal office through AMJAMS. The member's personal data is also available by requesting an AMJAMS Report on Individual Personnel (RIP) from the member's servicing Military Personnel Flight (MPF). Do not delay initiation for receipt of an AMJAMS RIP.

**3.7. Description of Offense.** The SJA should advise the commander how to properly allege each offense to state a violation of the UCMJ, consistent with available facts and evidence. Follow the form of specifications in MCM, Part IV. The legal office shall provide the language describing each offense on the AF Form 3070, except where impractical. (T-3) NJP action remains valid even if the specification fails to include all the elements of an offense, provided that the member is reasonably informed of the nature of the alleged misconduct.

**3.8. Notifying the Member.**

3.8.1. A commander initiating an NJP proceeding completes item 1 of the AF Form 3070, signs and dates the form, and causes the member to be notified and advised of his or her rights using AF Form 3070. See MCM, Part V, paragraph 4a. Either the initiating commander or a subordinate who is senior in rank to the member (when practicable) notifies and serves the member. The commander or subordinate annotates the date and time of service and signs in item 2 of the AF Form 3070 as the person serving the member. Regardless of who serves the member, provide the member with a copy of all pages of the AF Form 3070, any attachments, and the evidence discussed in paragraph 3.5.

3.8.2. If a commander refers the matter to a superior commander, the superior commander should normally initiate the NJP action and provide the notification. Where it is not practical for the member to appear personally before the superior commander, the subordinate commander may initiate the NJP proceeding using the AF Form 3070, item 1.a.(2). When doing so, the subordinate commander notifies the member that NJP proceedings before a superior commander are being recommended (including the identity of the superior commander) and advises the member of his or her rights.

3.8.3. A commander who initially recommended NJP proceedings by a superior commander may dispose of the case personally if the AF Form 3070 has not been forwarded to the superior commander. If the commander does not intend to personally pursue the matter as an NJP action, the commander withdraws the AF Form 3070 and provides it to the servicing SJA so termination of NJP proceedings can be recorded in AMJAMS. If the commander intends to personally pursue the matter as an NJP action, the commander has two options. First, the commander may notify the member by memorandum that he or she intends to decide whether to impose punishment under the pending NJP action instead of the superior commander, giving the member a new opportunity (three duty days) to accept NJP proceedings or demand trial by court-martial. Attach the memorandum to the AF Form 3070. Alternatively, the commander may withdraw the existing action and initiate a new action on a new AF Form 3070.

**3.9. Changing Commanders before Nonjudicial Punishment Proceedings are Complete.** A member must always be informed of the identity of the commander who will actually make the findings and punishment decisions before a decision is required as to whether to accept or demand court-martial. (T-0)

3.9.1. If a new commander takes responsibility for the case after the member was offered NJP proceedings, but before findings are made and punishment, if any, has been imposed, inform the member of the identity of the new commander and provide three duty days to accept NJP proceedings or to demand trial by court-martial. (T-0) The new commander accomplishes this by either notifying the member about the change in writing, using the notification format in Attachment 2, or by withdrawing the old AF Form 3070 and initiating a new action on a new

AF Form 3070. If the notification format is used, it becomes an attachment to the AF Form 3070.

3.9.2. If a change in commanders occurs after imposition of punishment but before the appeal decision has been made, inform the member in writing of the identity of the new commander and obtain an acknowledgment of this change from the member. Attach the notification and acknowledgment to the original AF Form 3070. Such a change neither impacts the former commander's action nor affords the member additional rights or response time. The new commander has full authority to ensure completion of the action, to include acting on appeal of punishment the new commander could not have independently imposed (e.g., the new commander is junior in grade to the imposing commander and could not have imposed the punishment the initiating commander imposed on the member). However, if an appeal is made, the former commander must prepare a written summary of any oral presentation and the source and substance of any other information considered, consistent with paragraph 4.6.3. (T-0) Notification of a change in commanders merely for the Unfavorable Information File (UIF) decision (paragraph 6.4.2) is not required.

3.9.3. If a commander notifies a member of the intent to recommend that a superior commander impose NJP, a change of the superior commander provides the identical rights, creating a new opportunity to accept or reject NJP. The subordinate commander follows the procedures set forth above in such situations.

**3.10. Discovery of Additional Offenses.** When evidence of any additional offense arises following initiation of NJP proceedings, but before the member is notified of the punishment, a commander may:

3.10.1. Withdraw the initial AF Form 3070 and reinitiate NJP to include all offenses. If the form has been sent to a superior commander, withdrawal can only occur with the superior's agreement; or

3.10.2. Proceed with the initial NJP proceeding and, provided initiation of NJP is the appropriate disposition for the additional offense(s), offer a second NJP for the additional offense(s).

**3.11. Member's Decision to Accept or Reject Nonjudicial Punishment.** Acceptance of NJP is a choice of forum, not an admission of guilt. The member has three duty days to accept or reject NJP following notification of the intent to impose NJP. Weekends and holidays are counted if they are normally scheduled duty days for the member. In practical application, the member is not required to accept or reject NJP sooner than 72 hours following notification of the intent to impose NJP. The initiating commander may, upon written application, grant an extension for good cause. Initiating commanders should consult with the servicing legal office before granting any extension. **Note:** For traditional reservists or ANG members in Title 10 status, three duty days includes unit training assemblies (UTAs), annual tour (AT) days, or other days in which the member is in a military status, whether paid or unpaid. Duty days do not include any days in which the member is not in a military status, whether paid or unpaid.

3.11.1. Members must reflect their NJP decision by initialing the appropriate blocks in item 3 of the AF Form 3070, sign, and then annotate the date and time signed. (T-0) Member must initial whether or not the member:

3.11.1.1. Consulted a lawyer. (T-0)

3.11.1.2. Demands trial by court-martial or waives the right to court-martial and accepts NJP proceedings. (T-0)

3.11.1.3. Provided a written presentation. (T-0)

3.11.1.4. Requests a personal appearance before the commander and whether or not the member requests the personal appearance be public. (T-0)

3.11.2. The member has a right to consult a lawyer before making any decisions, and a lawyer may assist the member throughout the proceedings. The phone number of the closest military defense counsel should be provided to the member to further explain the member's rights. The member may retain civilian counsel at the member's own expense. The commander should encourage the member to take full advantage of this time to consult with legal counsel, to decide whether to accept NJP proceedings, and if so, to prepare matters in defense, extenuation, or mitigation. The right to legal counsel does not include the right to request individual military defense counsel as defined in MCM, Part II; Rule for Courts-Martial (R.C.M.) 506(b)(1); and AFI 51-201, *Administration of Military Justice*. However, where a member asserts an attorney-client relationship with a military defense counsel other than the detailed military defense counsel, in regard to the same matter for which he or she is being offered NJP, process the request for this counsel according to the provisions of AFI 51-201.

3.11.3. If a member does not reply with his or her elections in time, the commander may continue with the proceedings and note in item 3 of AF Form 3070 "member failed to respond" and initial and date. The member's failure to respond in time is deemed an acceptance of nonjudicial proceedings under Article 15, UCMJ. However, if the commander has reason to believe a failure to respond resulted from reasons beyond the member's control, the commander may not, without good cause, proceed with NJP action.

**3.12. Member's Presentation.** See MCM, Part V, paragraph 4c. A member is generally entitled to appear personally before the imposing commander and present matters in defense, mitigation, or extenuation, except under extraordinary circumstances or when the imposing commander is unavailable. There is no requirement that a lawyer be made available to accompany the member at a personal appearance. See MCM, Part V, paragraph 4c(1) for the member's entitlements at a personal appearance.

3.12.1. If a personal appearance before a superior commander in proceedings initiated under paragraph 3.8.2 is prevented by the unavailability of the superior commander or by extraordinary circumstances, the member may appear personally before the subordinate commander who served him or her with the AF Form 3070. The subordinate commander then prepares a memorandum summarizing the presentation and forwards it to the superior commander, along with all written matters submitted by the member.

3.12.2. Under any other circumstances where a personal appearance is prevented by the unavailability of the imposing commander or by other extraordinary circumstances, the member appears personally before a person designated by the imposing commander. The designee prepares a memorandum summarizing the presentation and forwards it to the imposing commander, along with all written matters submitted by the member. See MCM, Part V, paragraph 4c(1).

3.12.3. The commander may open the personal appearance to the public, even though the member does not request it or agree the appearance should be open, subject to the following restrictions. Public NJP at commander's calls, UTAs, and other public gatherings is inappropriate without the consent of the member. The member must be given an opportunity to consult with counsel before deciding whether or not to consent to any such public proceedings. (T-0) NJP proceedings may be attended by a limited number of people in a more private setting, e.g., the commander's office. The individuals in attendance at NJP proceedings should normally be limited to those in the member's supervisory chain or people who can assist the decision authority (First Sergeant, Squadron Section Commander, SJA or designee, etc.).

3.12.4. If the proceedings involve a waiver of the statute of limitations, the member must sign a written waiver that becomes an attachment to the AF Form 3070. (T-0) See MCM, Part V, paragraph 1f(4); R.C.M. 907(b)(2)(B); and *United States v. Moore*, 32 M.J. 170 (CMA 1991).

### ***Section 3C—Imposing and Administering Punishments***

#### **3.13. Commander's Findings.**

3.13.1. Following full and fair consideration of the evidence, including any matters presented by the member, the commander indicates one of the following actions in item 4.a. of the AF Form 3070 by initialing the appropriate block on the form:

3.13.1.1. The proceedings are terminated because NJP is not appropriate or because the member did not commit the offense(s) alleged.

3.13.1.2. The member committed one or more offenses alleged. The commander lines out, initials and dates any offense(s) for which NJP is not appropriate or that the member did not commit. If the member committed one or more lesser included offenses, the commander consults with the SJA before changing an alleged offense to a lesser included offense.

3.13.2. If the commander terminates the proceedings, the commander should notify the individual of this decision, and send the original AF Form 3070 to the servicing SJA for appropriate AMJAMS entries. The AF Form 3070 is then destroyed.

**3.14. Commander's Punishments.** The commander must consult the servicing legal office before the commander imposes punishment. (T-3) The commander may consult directly with an attorney from the SJA's staff in lieu of the SJA. However, before providing a punishment recommendation on behalf of the SJA, the attorney from the SJA's staff must consult with the servicing SJA. (T-3) This consultation must be annotated in AMJAMS. (T-1) Any failure to consult with the servicing SJA, along with the reasons for such failure, should likewise be annotated in AMJAMS. (T-1) A non-attorney may not provide punishment advice on behalf of the SJA. After the commander consults the servicing SJA, the commander completes item 4, and signs and dates the form in the indicated blocks. Punishment is recorded in the appropriate block (Block 14 on AF Forms 3070A 3070D; 3070E; Block 16 on AF Form 3070B; Block 15 on AF Form 3070C) as a continuation of 4.a.(2). See Attachment 3 for examples of punishment formats. The date of imposition of NJP is the date the form is signed by the commander in the signature block in item 4. The member should be informed of the punishment and acknowledge receipt of the action on the same date punishment is imposed. See paragraph 4.5.2.

**3.15. Maximizing the Impact of Punishment.** Whenever possible, the commander should impose NJP personally.

**3.16. Permissible Punishments.** Table 3.1 and Table 3.2 set out the maximum permissible punishments, based on the grade and status of the commander and the grade of the member. If, after considering matters presented by the member, the commander determines the member committed one or more of the alleged offenses and NJP is appropriate, the commander must select at least one of the permissible punishments set out in Table 3.1 or Table 3.2. (T-0) The commander may suspend all or a portion of the punishment when imposed. For additional guidance on suspension of punishment, see paragraph 5.4. However, if the commander determines the member should not receive any form of authorized punishment, then the commander must find that NJP is not appropriate and terminate the proceedings. (T-0)

3.16.1. The maximum authorized punishment in a single case is subject to the limitations in MCM, Part V, paragraph 5d.

3.16.2. No more than one-half of the member's pay per month is subject to forfeiture, regardless of the number of NJPs imposed. If the member is reduced in grade, the maximum forfeitures are calculated based upon the reduced grade, even if the reduction in grade is suspended. See MCM, Part V, paragraph 5.c.(8).

3.16.3. Subject to the restrictions outlined in this paragraph, extra duties imposed as part of NJP may be required to be performed at any time and for any length of time during the period of punishment. No extra duties may be imposed that constitute: cruel or unusual punishment; punishment not sanctioned by the customs of the Air Force (e.g., using the member as a personal servant); duties normally intended as an honor (e.g., assignment to honor guard); actions required to be performed in an unnecessarily degrading manner (e.g., an order to clean a floor with a toothbrush); or duties that are a safety or health hazard to the member.

**3.17. Punishment Effective Date.** Unsuspended reductions in grade and forfeitures of pay take effect on the date the commander imposes punishment. See MCM, Part V, paragraph 5g. This is reflected as the date the commander signs block 4 of the AF Form 3070. All other unsuspended punishments take effect immediately upon notification to the member, unless the commander provides otherwise in the punishment indorsement. The suspension of a punishment takes effect on the date the commander imposes punishment, not the date the member was notified of the punishment. The date of notification to the member is reflected in block 5 of the AF Form 3070.

3.17.1. Prompt execution of punishment is desired absent unique circumstances, which include, but are not limited to, the member serving similar punishment from a prior UCMJ action, lack of available space in a correctional custody facility, physical incapacity of the member, emergency leave, and/or humanitarian considerations.

3.17.2. Once commenced, punishments involving restraint (i.e., correctional custody, restrictions, or arrest in quarters) or extra duties run continuously. However, these punishments may be stayed pursuant to the member's request based upon an appeal not being acted upon in accordance with MCM, Part V, paragraph 7d, or when temporarily interrupted due to either the fault of the member or unique circumstance as listed above in paragraph 3.17.1. Note that special rules for imposing punishment on reserve component members may be authorized under MCM, Part V, paragraphs 5e and 5f.



**3.18. Release of Information.** Release of information subsequent to imposition of punishment should be limited to an individual's grade, offense, punishment and squadron. Do not release information that would readily identify the member.

*Section 3D—Action When the Member Demands Trial by Court-Martial*

**3.19. Restrictions.** If a member demands trial by court-martial, the commander may not impose NJP.

**3.20. Commander's Options.** The commander is not required to prefer court-martial charges, and no mandate exists to refer a case to trial by court-martial. Charges and specifications preferred following rejection of an offered NJP action are in no way limited to those originally included in the offer. The form and substance of the charges may be altered to meet legal or proof requirements, and new charges may be added.

**3.21. Withdrawing Demand for Trial.** Once a member demands trial, the member may withdraw this demand only with the commander's approval. In addition, convening authority concurrence is required if charges have been preferred. If charges were preferred and not forwarded to the GCMCA (i.e., the withdrawal request was received prior to the completion of any Article 32, UCMJ, preliminary hearing and forwarding of the report to the general court-martial convening authority; if the charges were preferred with the intent of referring the charges to a special court-martial; or if the charges were preferred and referred to a special court-martial), the Special Court-Martial Convening Authority's concurrence is sufficient. Otherwise, the request must be forwarded to the GCMCA for concurrence. (T-1) Procedurally, the member must submit a written request to the commander, who will then indorse approval or disapproval. (T-0) The request will become an attachment to the AF Form 3070. If withdrawal is granted, pen and ink changes should be made in item 3 of the AF Form 3070 to reflect the member's new decision to accept NJP proceedings and the commander should continue with the NJP proceedings. While this is the preferred resolution, initiating a new NJP proceeding remains an alternative.

**Table 3.1. Enlisted Punishments.**

<b>Punishment</b>	<b>Imposed by Lt or Capt</b>	<b>Imposed by Major</b>	<b>Imposed by Lt Col or Above</b>
Additional Restrictions	May not Impose NJP on CMSgt or SMSgt	May not Impose NJP on CMSgt or SMSgt	See Note 2 for reduction of CMSgt or SMSgt
Correctional Custody	Up to 7 days	30 days	30 days
Reduction in Rank	CMSgt – No SMSgt – No MSgt – No TSgt – No SSgt – One Grade SrA – One Grade A1C – One Grade Amn – to AB	CMSgt – No SMSgt – No MSgt – No TSgt – One Grade SSgt – One Grade SrA – to AB A1C – to AB Amn – to AB	CMSgt – See Note 2 SMSgt – See Note 2 MSgt – One Grade TSgt – One Grade SSgt – One Grade SrA – to AB A1C – to AB Amn – to AB
Forfeiture	7 days' pay	1/2 of 1 month's pay per month for 2 months	1/2 of 1 month's pay per month for 2 months
Reprimand	Yes	Yes	Yes
Restriction	14 days	60 days	60 days
Extra Duties	14 days	45 days	45 days
<b>NOTES:</b>			
<p>1. See MCM, Part V, paragraph 5d, for further limitations on combinations of punishments.</p> <p>2. CMSgt or SMSgt may be reduced one grade only by MAJCOM commanders, commanders of unified or specified commands, or commanders to whom promotion authority to these grades has been delegated. See AFI 36-2502, <i>Enlisted Airmen Promotion/Demotion Program</i>.</p> <p>3. Frocked commanders may exercise only that authority associated with their actual pay grade.</p> <p>4. For enlisted members of the ANG, the initiating commander may be the commander to whom the member is attached in Title 10 status, the 201 MSS/CC or subordinate or superior commander, or MAJCOM commander (or subordinate commander to the MAJCOM commander) recalling the member to Title 10 status may impose punishment.</p>			

**Table 3.2. Officer Punishments.**

<b>Punishment</b>	<b>Imposed by Colonel</b>	<b>Imposed by General Officer or GCMCA</b>
Correctional Custody	No	No
Reduction	No	No
Forfeiture	No	1/2 of 1 month's pay per month for 2 months
Reprimand	Yes	Yes
Arrest in Quarters	No	30 days
Restriction	30 days	60 days
Extra Duties	No	No
<b>NOTES:</b>		
<p>1. Only MAJCOM commanders, commanders of unified commands, and their equivalents, or higher may impose NJP on general officers.</p> <p>2. See MCM, Part V, paragraph 5d, for further limitations on combinations of punishments.</p> <p>3. Only the ANG Readiness Center Commander, commander to whom the member is attached in Title 10 status, or MAJCOM commander (or subordinate commander to the MAJCOM commander) recalling the member to Title 10 status may impose punishment.</p>		

## Chapter 4

### NONJUDICIAL PUNISHMENT APPEALS AND SELECTION RECORDS

**4.1. General Guidance.** An appeal may be taken if a member considers the punishment to be unjust or disproportionate to the offense or because the member asserts the offense was not committed. See MCM, Part V, paragraph 7a.

**4.2. Appellate Authority.** NJP appeals are made to the "next superior authority," as defined in AFPD 51-2.

4.2.1. When a principal assistant to a commander of an Air Force establishment, unit, or non-unit (other than Air Force elements of organizations outside the Air Force) imposed punishment, the "next superior authority" is the next Air Force commander superior to the commander who delegated the power. See AFPD 51-2.

4.2.2. When a detachment commander imposes punishment, the "next superior authority" is the detachment commander's immediate commander, unless the immediate commander is not the appointing authority (e.g., if the detachment commander is appointed by a group commander, the appellate authority cannot be a squadron commander of the squadron). Detachment commanders exercise the authority of the commander who appoints them as detachment commanders. See AFI 51-509.

4.2.3. When a section commander of a squadron imposes punishment, the "next superior authority" is the squadron commander's superior commander. However, when a section commander for all other units or elements imposes punishment (i.e., Group, Wing, Numbered Air Force, Major Command, Center, Field Operating Agency, and Direct Reporting Unit), the "next superior authority" is the section commander's immediate commander.

4.2.4. When an Air Force element commander, as identified in paragraph 2.1.4.2, imposes punishment, the "next superior authority" is the SAFO for Air Force members within the element under the SAFO's direct authority.

4.2.4.1. A SAFO may not act as the "next superior authority" if the SAFO is not at least a field grade officer and higher in grade to the element commander who imposed the punishment. Paragraph 4.2.5 or 4.2.6 should be applied in these cases.

4.2.4.2. A SAFO may not act as the "next superior authority" if the SAFO is also acting as the element commander. Paragraph 4.2.5 or 4.2.6 should be applied in these cases.

4.2.5. When either a SAFO or Air Force element commander (whose SAFO is unable to act under paragraph 4.2.4.1 and 4.2.4.2) for the headquarters staff organization in a unified command, specified command, subordinate unified command, joint task force, combined command or combined task force imposes punishment, the "next superior authority" is the SAFO or Air Force element commander in the headquarters staff organization at the next superior level component command in the joint or combined force, if any, or the GCMCA for the Air Force unit responsible for providing support to the headquarters staff organization under AFI 25-201. The Air Force officer who acts on the appeal must at least be a field grade officer and higher in grade to the officer who imposed the punishment. (T-0) When the next superior authority is not at least a field grade officer and higher in grade to the SAFO or Air Force element commander who imposed the punishment, or when the SAFO or Air Force

element commander for the headquarters staff of a unified command imposed the punishment, the AF/CV is the "next superior authority," and the appeal is forwarded directly to AFLOA/JAJM.

4.2.6. When the SAFO or Air Force element commander (whose SAFO is unable to act under paragraph 4.2.4.1 and 4.2.4.2) of an activity outside the Air Force imposes punishment, the "next superior authority" is AFDW/CC. However, if AFDW/CC is not higher in grade to the SAFO or element commander who imposed punishment, the AF/CV is the "next superior authority" and the appeal is forwarded directly to AFLOA/JAJM.

4.2.7. When the commander of a MAJCOM, direct reporting unit, or field operating agency imposes punishment, the Secretary of the Air Force has designated AF/CC as the appellate authority and authorized AF/CC to delegate this authority to AF/CV. Forward such appeals directly to AFLOA/JAJM.

4.2.8. When a joint force commander, including an Air Force officer acting in his or her capacity as a joint force commander, imposes punishment, the "next superior authority" is the next superior joint force commander. When the commander of a unified command imposes punishment, or is otherwise disqualified from being the appellate authority, forward the appeal to the Chairman of the Joint Chiefs of Staff for appropriate action by the Secretary of Defense or his designee, in accordance with Joint Publication 1. The SAFO or commander of the member's element notifies the servicing Air Force SJA of the appeal. The servicing SJA coordinates with the SJA or legal counsel who services the appellate authority to explain Air Force policy and procedures for NJP and to advise the appellate authority's SJA or legal counsel that collateral decisions and processing (such as AMJAMS inputs, personnel and finance actions, and UIF and selection record entries) will be made within Air Force channels.

4.2.9. When a multiservice commander in a combined command, combined task force, or activity outside the Air Force imposes NJP on an Air Force member, the next superior authority is the immediate multiservice commander who is a member of the U.S. Armed Forces and who is superior to the imposing commander, if any, or the Air Force GCMCA with UCMJ authority over the Air Force member. However, if the next superior authority or GCMCA is junior in grade to the imposing commander, the AF/CV is the "next superior authority" and the appeal is forwarded directly to AFLOA/JAJM.

4.2.10. When a unique command structure or situation exists, AFLOA/JAJM may designate another individual to act as the appellate authority. Applications for such designations shall be submitted to AFLOA/JAJM in writing through appropriate command channels. (T-1)

**4.3. Format.** Appeals must be documented on the AF Form 3070. (T-0) No right or entitlement to a personal appearance before the appellate authority is provided. See MCM, Part V, paragraph 7c.

**4.4. Delegation of Authority.** If the "next superior authority" is a general officer or a GCMCA, that individual may delegate the power to act on appeals to a principal assistant in the manner described in paragraph 2.5.

#### **4.5. Procedures for Appeals.**

4.5.1. Punishment is not stayed pending appeal, except as provided in MCM, Part V, paragraph 7d.

4.5.2. At the time a commander informs the member of the punishment, the commander:

4.5.2.1. Directs the member to acknowledge receipt of the punishment and right to appeal by signing item 5 of the AF Form 3070 and then annotating the date and time signed. If the member refuses to acknowledge receipt of the punishment and rights to appeal, the commander notes in item 5 "member refused to acknowledge receipt of punishment and right to appeal," initial and date. The time limit for appeal is still applicable despite the member's failure to sign the AF Form 3070.

4.5.2.2. Informs the member that the appeal can be filed anytime within five calendar days. (T-0) A decision not to appeal is final.

4.5.2.3. Explains that if an appeal is not filed within five days, appellate rights will be waived. The commander may grant an extension of time to appeal for good cause and upon written application received within the five-day appeal period.

4.5.2.4. Explains to the member that any documents supporting the appeal must be submitted at the same time the member makes the appeal decision.

4.5.2.5. Explains to the member that he or she is entitled to the advice of legal counsel in making the appeal decision.

4.5.3. The member must reflect his or her appeal decision by initialing only one block in item 6a-c of the AF Form 3070, signing the form, and then annotating the date and time signed. (T-3) : Non-ANG NCOs in the grade of E-6 and above and officers must also initial the appropriate block in item 6d-e for matters pertaining to their selection record, as applicable. See paragraph 4.8. (T-3)

4.5.3.1. The member makes a choice between not appealing, appealing and submitting matters in writing, or appealing and not submitting matters in writing. : Non-ANG NCOs in the grade of E-6 and above and officers may choose not to appeal and may still choose to submit matters pertaining to their selection record, as applicable.

4.5.3.2. The appeal decision is a one-time decision made during the time limit for appeal explained in paragraph 4.5.2.2. All documents supporting the appeal must be submitted at the same time as the appeal decision. (T-3) If the member decides not to appeal, the imposing commander makes the UIF determination in item 9 of the AF Form 3070 and continues processing the NJP action in accordance with paragraph 4.8, if applicable, and Section 6B. If the member decides to appeal, the imposing commander continues processing the appeal, and, if applicable, the filing decision required in accordance with paragraph 4.8.

4.5.3.3. The member's decision to appeal or not to appeal in item 6 of the AF Form 3070 ends the time limit for appeal. If the imposing commander has not acted on the appeal, the member may withdraw the appeal. Pen and ink changes should be made in item 6 of the AF Form 3070 to reflect the member's decision not to appeal. Any changes should be initialed and dated by the member.

4.5.3.4. If the member refuses to sign his or her appeal decision within the time limit for appeal, the commander notes in item 6 of the AF Form 3070 "member refused to make appeal decision within the time limit for appeal" and initial and date. The member's failure to timely respond is deemed a waiver of his or her right to appeal.

4.5.4. In the event a member in the grade of SSgt upon which NJP has been imposed promotes prior to making an appellate election, an AF Form 3070B should be added as a supplement to the AF Form 3070A, allowing the member to make elections for Non-Commissioned Officer Selection Record purposes in accordance with paragraph 4.8. A memorandum should be included as a formal attachment explaining the supplementation.

#### **4.6. Action on Appeal by Imposing Commander.**

4.6.1. The imposing commander examines the written matters submitted, if any, and after consulting with the SJA, may deny the appeal or grant the relief requested in whole or in part, by using his or her powers to suspend, mitigate, remit, or set aside the punishment.

4.6.2. The imposing commander records his or her decision on the appeal in item 7 of the AF Form 3070 by initialing the appropriate block and signing the form. If the imposing commander grants relief, he or she annotates the relief granted in item 14 as a continuation of item 7. The annotation should state "As the commander who imposed nonjudicial punishment, I grant your appeal [(in full)(in part)] as follows: (State the specific relief granted)." If the commander grants full relief, do not forward the appeal. If the commander grants less than the full relief requested, forward the appeal to the appellate authority.

4.6.3. If the appeal is forwarded to the appellate authority, the imposing commander adds written comments by indorsement through the servicing SJA (see MCM, Part V, paragraph 7e), addressing any contentions raised by the member. The imposing commander states in the forwarding indorsement whether the member has served any portion of the punishment. The imposing commander includes in the package all written materials considered in imposing the punishment, including a summary of the member's oral presentation, if applicable, as well as a summary of any other information considered and its source. : In the event there is a change of command after the commander initiates NJP, the memorandum provided to the member notifying him of the change of commander should also be forwarded to the appellate authority. The indorsement may state the commander's rationale for imposing punishment and a recommendation for action on the appeal. Since the indorsement includes deliberative process, the member is not entitled to a copy.

**4.7. Action on Appeal by Appellate Authority.** The appellate authority reviews the written material forwarded by the initiating commander and the legal review required by MCM, Part V, Section 7e. The legal review must be in writing. (T-1) This material does not become part of the permanent record, but is returned to the SJA for filing. The appellate authority may deny the appeal or grant the relief requested in whole or in part, by using the same power as may be exercised by the imposing commander to suspend, mitigate, remit, or set aside the punishment. The appellate authority records his or her decision on the appeal in item 8 of the AF Form 3070 by initialing the appropriate block and signing the form. Relief granted (in full or in part) is recorded in item 14 as a continuation of item 8. Unless otherwise stated, relief granted as a result of an appeal is effective from the date the punishment was initially imposed. See MCM, Part V, paragraph 7f(1). If all punishment is disapproved, the entire action must be set aside and removed from the member's record; an NJP action cannot consist of "no punishment." (T-0)

#### **4.8. Officer Selection Record and Enlisted Selection Record Determination.**

4.8.1. When the member is an officer or an enlisted member (TSgt and above) required to meet an evaluation board prior to being promoted, the imposing commander must decide whether to file the record of NJP in the member's selection record. (T-1) This decision is made after punishment is imposed and any appeal is resolved. Commanders must annotate the date matters are due for consideration in determining whether to file the NJP in the selection record in Block 4 of the AF Form 3070. (T-1)

4.8.2. Initiating Commander Decision Not to File NJP in Selection Record. If a commander makes a determination not to file NJP in the appropriate selection record, the NJP does not need to be forwarded to a senior commander for review. See AFI 36-2608, *Military Personnel Records System*

4.8.3. Initiating Commander Decision to File NJP in Selection Record. If a commander decides to file NJP in the appropriate selection record, the NJP is forwarded to the next superior authority for review. See AFI 36-2608. Exceptions to this requirement include instances in which the imposing commander is a GCMCA or superior. The decision of the reviewing authority is final.

4.8.4. The GCMCA SJA shall simultaneously forward the final decision memorandum regarding the selection record and any related correspondence (the commander's intent to file memorandum and individual statements, if any) with the original record of NJP for inclusion in the member's master personnel record group. (T-1) : The ANG does not utilize SNCO Selection Records.

4.8.5. In a joint or combined command or task force, if an officer assigned to a different service imposed NJP on an Air Force member, the Air Force officer identified in AFI 36-2608 must make the selection record filing decision. (T-3)

4.8.6. Follow the procedures in AFI 36-2608. Also refer to AFI 36-2608 for filing records of vacation or supplemental proceedings (i.e., AF Forms 366 and 3212).



## Chapter 5

### SUPPLEMENTARY ACTIONS

#### *Section 5A—Suspension, Mitigation, Remission, and Set Aside of Punishment*

**5.1. General Guidance.** Use AF Form 3212 to record actions to suspend, mitigate, remit, or set aside punishment, unless such actions are accomplished as part of an appeal, which is governed by Chapter 4.

**5.2. Consultation Required.** Commanders must consult the servicing SJA before taking action to suspend, mitigate, remit, or set aside a previously imposed punishment. (T-3) A commander may take such action upon his or her own initiative or upon a request from the member. Members requesting such relief should use the sample format at Attachment 4.

**5.3. Action by Successor in Command.** A commander's power to suspend, mitigate, remit, or set aside NJP passes to any successor in command. For these purposes, the successor in command may be either:

5.3.1. The officer who succeeded to the command or the position of the officer who imposed the punishment and who is authorized to impose on the member the punishment involved; or

5.3.2. An officer authorized to impose on the member the punishment involved, if the member has been reassigned.

5.3.3. If a successor in command lacks authority, that officer forwards the member's request to the next superior authority. See MCM, Part V, paragraph 7f(1); AFD 51-2.

**5.4. Suspension.** See MCM, Part V, paragraph 6a. Suspension is the postponement of the application of all or part of the punishment for a specific probationary period, until a specified date. It will be automatically remitted (canceled) at the end of that period if the member does not violate the condition(s) of suspension. Suspension is often warranted for a first offense or where persuasive extenuating or mitigating circumstances exist.

5.4.1. A commander may, at any time, suspend any part or amount of the unexecuted punishment imposed. An executed punishment of reduction in grade or forfeiture may be suspended, provided the suspension is accomplished within a period of four months after the date imposed.

5.4.2. Suspension of punishment may not be for a period longer than six months from the date the suspension was imposed or longer than six months from the date the original punishment was imposed). (T-0) The expiration of the current enlistment or term of service of the member involved automatically terminates any period of suspension. However, six months may be longer than 180 days; for example, 1 July punishment suspended through 31 December. A suspension action will set a specific date after which, unless sooner vacated, the suspension will terminate and the punishment will be remitted. This date should not exceed the member's expiration of term of service at the time suspension action is taken.

5.4.3. When reduction in grade is later suspended, the member's original date of rank (DOR), held before the reduction, is reinstated. The effective DOR is the date of the document directing the suspension. See AFI 36-2604, *Service Dates and Dates of Rank*.

5.4.4. Suspension of a punishment automatically includes a condition that the service member will not violate any punitive articles of the UCMJ. Commanders may specify other conditions as well, but shall consult with the SJA before imposing them. (T-3) Include any additional conditions of suspension within the punishment indorsement. The additional condition(s) upon which suspension is based must be clearly stated and capable of being completed during the period of suspension. (T-0) See Attachment 4 for sample language.

5.4.5. The member, if undergoing a suspended reduction in grade, is ineligible for promotion, including testing and consideration if already tested. See AFI 36-2502. The member, if serving any suspended punishment, is ineligible to reenlist, but may be eligible for an extension of enlistment. See AFI 36-2606, *Reenlistment and Extension of Reenlistment in the United States Air Force*.

**5.5. Mitigation.** See MCM, Part V, paragraph 6b. Mitigation is a reduction in either the quantity or quality of a punishment with its general nature remaining the same. For example, a punishment of correctional custody for 20 days can be mitigated to correctional custody for 10 days or to restriction for 20 days. The first action lessens the quantity and the second lessens the quality, with both mitigated punishments remaining of the same general nature as correctional custody, that is, deprivation of liberty. However, a mitigation of 10 days correctional custody to 14 days restriction would not be permitted because the quantity has been increased. (T-0)

5.5.1. With the exception of reduction in grade, only the unexecuted part or amount of the punishment can be mitigated. (T-0)

5.5.2. A reduction in grade can only be mitigated to forfeitures. A reduction in grade will not be mitigated to a lesser reduction or no reduction. Mitigation of a reduction in grade must be done within four months after the date of execution. (T-0) When mitigating a reduction in grade to forfeiture of pay, the amount of the forfeiture imposed may not be greater than the amount that could have been imposed by the officer who initially imposed the mitigated punishment. (T-0) See MCM, Part V, paragraph 6b. If the reduction was executed, the DOR for the restored grade is the date of the indorsement mitigating the punishment. For example, if a member receives Article 15 punishment consisting of a reduction in grade on 1 June, and on 1 July the commander subsequently mitigates the reduction to a forfeiture, both the effective date and DOR for the restored grade is 1 July. See AFI 36-2604.

5.5.3. A forfeiture of pay, to the extent to which it has not been executed, may be mitigated to a lesser forfeiture of pay, but cannot be mitigated to other forms of punishment. (T-0)

5.5.4. Restraints on liberty (such as arrest, correctional custody, extra duties, and restriction) may not be mitigated to forfeitures or reduction in grade because the general nature of the punishment would be changed. (T-0) Arrest in quarters can be mitigated to restriction; correctional custody can be mitigated to extra duties or restriction or both; extra duties can be mitigated to restriction; but restriction, being the least severe restraint on liberty, cannot be mitigated to a different form of punishment. When a restraint on liberty is mitigated, the lesser punishment may not run for a period greater than the remainder of the period for which the punishment mitigated was initially imposed. For example, when a person is given 15 days of correctional custody and has served five days of this punishment and correctional custody is mitigated to restriction, the mitigated punishment may not exceed restriction for a period of 10 days.

**5.6. Remission.** See MCM, Part V, paragraph 6c. Remission is simply the cancellation of any portion of the unexecuted punishment. An unsuspended reduction is executed on imposition. It can, therefore, never be remitted, but under appropriate circumstances may be suspended (paragraph 5.4), mitigated (paragraph 5.5), or set aside (paragraph 5.7).

**5.7. Set Aside.** See MCM, Part V, paragraph 6d. Set aside occurs when the punishment, or any part or amount thereof, whether executed or unexecuted, is removed from the record and any rights, privileges, pay, or property affected by the relevant portion of the punishment are restored. A set aside of all punishment voids the NJP. Commanders use AF Form 3212 to set aside punishment. A commander may not set aside punishment more than four months after execution of the punishment, unless the commander determines unusual circumstances exist and explains them in an attachment to AF Form 3212.

5.7.1. Set aside is not normally considered a rehabilitation tool, like suspension, remission, and mitigation. Commanders should not routinely set aside punishment, but should exercise this discretionary authority only in the rare and unusual case where a question concerning the guilt of the member arises or where the best interests of the Air Force are served by clearing the member's record.

5.7.2. Setting aside a punishment in its entirety restores the member to the position held before imposition of the punishment, as if the NJP had never been initiated. For example, if a member has been reduced in grade through NJP, and the reduction is later set aside, the effective date and DOR revert to that held before reduction. See AFI 36-2604.

**5.8. Limitations on Suspension, Mitigation, Remission and Set Aside of Punishment.** A commander can suspend, mitigate, remit, or set aside punishment under Article 15, UCMJ, only if the commander has the authority to impose that punishment. (T-0) For example, a commander in the grade of captain or lieutenant cannot suspend, mitigate, remit, or set aside punishment imposed by a field grade commander beyond what the captain or lieutenant could impose. A commander not empowered to act may recommend suspending, mitigating, remitting, or setting aside an action to the next superior authority empowered to impose such punishment(s).

**5.9. Processing Requirements.** Process and file all requests to suspend, mitigate, remit, or set aside punishment, and any actions taken in response, with the original NJP record and ensure inclusion with other official file copies.

### *Section 5B—Vacation of Suspension*

**5.10. General Guidance.** Commanders must consult the servicing SJA before taking action to vacate a suspended punishment. (T-3) A commander may vacate all or a portion of the suspended punishment. Vacation of a suspended NJP is not itself NJP. A commander can impose NJP for the same violation of a punitive article of the UCMJ upon which the vacation action is based. MCM, Part V, paragraph 6a(5), provides further guidance on vacation actions.

**5.11. Notification to the Member.** Except when prevented by unauthorized absence of the member, the commander completes item 1 of the AF Form 366, signs and dates the form, and causes the member to be notified and advised of his or her rights, using the form. Normally, the commander notifies and serves the member, then signs and annotates the date and time the member was served notice of the proceeding in item 2 of the AF Form 366. Where circumstances prevent the commander from personally notifying and serving the AF Form 366 on the member or the

commander elects not to do so, the commander may direct a subordinate, senior in rank to the member (when practicable), to notify and serve the member. The subordinate annotates the date and time of service and signs in item 2 of the AF Form 366 as the person serving the member. Regardless of who serves the member, provide the member with a copy of both pages of the AF Form 366. Make available to the member all statements and evidence upon which the commander intends to rely in making his or her decision.

5.11.1. The servicing SJA provides a description of the basis for the vacation (e.g., misconduct or failure to meet an additional condition upon which the suspension was based) and other information pertinent to the suspended punishment on the AF Form 366.

5.11.2. If a new commander assumes responsibility for the case after a vacation proceeding has been initiated, but before the vacation decision is made, inform the member of the identity of the new commander and provide three duty days to present matters. The new commander accomplishes this either by notifying the member about the change in writing or by withdrawing the old AF Form 366 and initiating a new vacation proceeding on a new AF Form 366. If the notification format is used, it becomes an attachment to the AF Form 366.

5.11.3. Notification of proceedings to vacate suspended NJP may be provided to officers by the commander who originally recommended that another commander punish the member under Article 15, UCMJ (e.g., the Wing/CC who recommended the numbered air force commander punish the member). This notification can be provided by modifying the AF Form 366 in block 1.d, to include the statement, "Upon receipt of your presentation, if any, the decision to vacate your punishment will be made by [Name/Grade of CC]."

5.11.4. The member may present matters in defense, extenuation, or mitigation regarding the violation on which the vacation action is based.

5.11.5. The member may make either a written presentation or personal appearance or both. If the member elects to make a personal appearance, he or she may personally appear before the commander authorized to vacate suspension of the NJP. If such an appearance is impracticable due to the unavailability of the commander or by extraordinary circumstances, the member may appear before a person designated by the commander who will prepare a summary of the personal appearance for the commander. At the personal appearance, the member may (a) present evidence; (b) present witnesses who are reasonably available; and (c) be accompanied by someone to speak on his or her behalf. There is no requirement that a lawyer be made available to accompany the member at the personal appearance.

**5.12. Member's Elections.** The member has three duty days to make his elections. The member must initial in item 3 of the AF Form 366 whether or not the member consulted a lawyer, attached a written presentation, or requested a personal appearance before the commander. (T-3) The commander may, upon written application, grant an extension for good cause.

5.12.1. If a member does not reply with his or her elections in time, the commander may continue with the proceedings and note in item 3 of AF Form 366 "member failed to respond" and initial and date.

5.12.2. The member's failure to respond in time does not prevent the commander from continuing with the vacation proceedings. However, if the commander has reason to believe a failure to respond resulted from reasons beyond that individual's control, the commander may not, without good cause, proceed with vacation proceedings.

**5.13. Timing.** Vacation of a suspension must be based on the violation of the condition(s) of the suspension and occur within the period of suspension. (T-0) See paragraph 5.4.4. To vacate a suspension, the commander must present the member with the AF Form 366 before the end of the suspension period. (T-0) The suspension period is stayed if the member has been properly notified via AF Form 366 during the suspension period. The member's unauthorized absence also stays the suspension period.

**5.14. Commander's Decision.**

5.14.1. Following full and fair consideration of the evidence, including any matters presented by the member, the commander indicates one of the following actions in item 4a of the AF Form 366 by initialing the appropriate block on the form:

5.14.1.1. The vacation proceedings are terminated because vacation of the suspended punishment is not appropriate or because the member did not violate the condition(s) of the suspension.

5.14.1.2. The member violated one or more of the conditions of the suspension. The commander lines out and initials any violations for which vacation of the suspended punishment is not appropriate or which the member did not violate.

5.14.2. The commander completes item 4 of the AF Form 366 and signs and dates the form in the indicated blocks.

5.14.2.1. If the commander terminates the proceedings, the original AF Form 366 is sent to the servicing SJA for appropriate AMJAMS entries. The AF Form 366 is then destroyed.

5.14.2.2. Punishment is recorded in item 9 of the AF Form 366 as a continuation of 4.a(2).

5.14.3. At the time a commander informs the member of the vacation decision, the commander directs the member to acknowledge the action taken on the proceedings of vacation of suspended NJP and that there is no right to appeal by signing and dating item 5 of the AF Form 366. **NOTE:** If the member refuses to acknowledge receipt of the vacation action, the commander notes in item 5 "member refused to acknowledge receipt of vacation action" and initial and date.

**5.15. Effect on Suspended Reductions.** If a reduction in grade is suspended, but the suspension is later vacated, the DOR in the grade to which the member is reduced is the date the original reduction was imposed by the commander. The effective date, however, is the date of the vacation action. See AFI 36-2604. For example, if the commander imposed punishment consisting of a suspended reduction in grade for six months on 1 June, and the commander subsequently vacates the suspension on 2 September, the effective date of the reduction is 2 September, but the member's new DOR is 1 June. Pay is not retroactively recouped.

## Chapter 6

### MISCELLANEOUS MATTERS

#### *Section 6A—Indorsing Forms and Correspondence*

**6.1. Procedure.** Prepare any indorsements to AF Form 3070 using normal correspondence practices. Send the correspondence involved in processing NJP (including prescribed forms) through command channels, except as provided in paragraph 6.8. Unless specifically prescribed, each intermediate commander decides whether to add matters of substance by indorsement. If so, they are signed as noted below.

#### **6.2. Content of Indorsements:**

6.2.1. Any intermediate commander or delegee may recommend action or provide other information that might help the superior commander in arriving at a decision.

6.2.2. Following actions by appropriate authority, any intermediate commander, delegee, or staff officer signing under the authority line may furnish information (including administrative instructions) to the member or to a subordinate commander by indorsement.

**6.3. Copies.** Copies of Article 15 documentation are reproduced from the signed original. The SJA ensures copies of all documents and attachments that will comprise the record of punishment, as set forth in paragraph 6.15, are provided to the member and to each level of command involved.

#### *Section 6B—Action Taken on Records of Punishment, Including Vacation, Suspension, Mitigation and Set Aside Actions*

**6.4. Action by the Commander.** The commander who imposed the punishment or who took action to vacate, suspend, mitigate, remit, or set aside, sends the record to the servicing SJA for review, comment, and recommendation, as appropriate.

6.4.1. If the punishment includes unsuspended correctional custody, the commander immediately notifies the correctional custody monitor of the details, including inclusive dates, to begin the punishment.

6.4.2. Before sending the AF Form 3070 to the servicing SJA, but after completing all other action, including appeal, the commander imposing punishment indicates in item 9 (for AB-SSgt) or item 11 (for TSgt-CMSgt) whether the NJP record will be filed in an enlisted member's UIF by initialing, signing and dating the appropriate block. The imposing commander should make this determination even in cases that were appealed. However, if the imposing commander is not available, any person authorized by AFI 36-2907, *Unfavorable Information File (UIF) Program*, may make the UIF determination. UIFs are mandatory for officers who receive NJP, which is noted in item 9 of the AF Form 3070C.

6.4.2.1. It is within the commander's discretion to provide the member with an opportunity to respond to the UIF decision, regardless of whether the entry of the NJP record in the UIF is mandatory or optional.

6.4.2.2. In a joint or combined command or task force, if an officer assigned to a different service imposed NJP on an Air Force member, the Air Force officer identified in AFI 36-2907 must make the UIF decision. (T-1)

6.4.2.3. The member acknowledges that he or she was informed about the commander's decisions on the UIF, selection record, and appeal, as applicable, by signing and dating the "Member's Acknowledgement" block on the AF Form 3070. If the member refuses to sign, the commander notes "member refused to sign" in this block and initial and date.

6.4.3. For enlisted members in the grade of E-6 and above, the commander must make a decision regarding selection record processing, and the member must acknowledge that he or she has been informed of the decisions before the servicing SJA may complete the legal review. (T-1) For all officers, the commander must make a decision regarding selection record processing and the member must acknowledge that or she has been informed of the decision before the servicing SJA may complete the legal review. (T-1) If the commander elects not to file the NJP in the member's selection record, the NJP is not forwarded for superior commander review. : The ANG does not use Officer Selection Records or SNCO Selection Records.

6.4.4. In the event action to vacate, suspend, mitigate, remit, or set aside is taken by a new commander junior in rank to the imposing commander, the new commander has authority to act on any punishment imposed by the original imposing commander.

**6.5. Action by the Servicing SJA.** The SJA or delegee reviews the NJP action for legal sufficiency if no appeal is taken, or after the member acknowledges action on the appeal and the imposing commander returns the record to the servicing SJA. The reviewing attorney signs and dates the "Servicing SJA Legal Review" block of the AF Form 3070 (or of the AF Form 366 or 3212, when applicable) when the record is found legally sufficient. The NJP action is then final and admissible in courts-martial for purposes of R.C.M. 1001(b)(2). This is also the final action for purposes of the timeliness metric as recorded in AMJAMS.

6.5.1. After completing the Servicing SJA Legal Sufficiency Review, the Servicing SJA expeditiously sends:

6.5.1.1. One copy of the record to the officer who supervises the correctional custody program if the case involves unsuspended correctional custody. (T-1)

6.5.1.2. Two copies of the record, with an AF Form 1373, *MPO Document Control Log-Transmittal*, to the Accounting and Finance Office (AFO) if the punishment affects the member's pay. (T-1) The SJA keeps a copy of the AF Form 1373. The person who provided the copies of the record to AFO will date and initial the appropriate part of the "MPF and AFO Distribution" block of the AF Form 3070 (or of the AF Form 366 or 3212, when applicable) or mark "N/A" if not applicable.

6.5.1.3. One copy of the record to the unit UIF monitor if the record will be filed in a UIF. (T-1) The unit UIF monitor is responsible for ensuring entry into a UIF. See AFI 36-2907 for detailed procedures.

6.5.1.4. One copy of the record to the servicing MPF, with an AF Form 1373, in all cases. (T-1) The SJA keeps a copy of the AF Form 1373. The person who provided the copy of the record to MPF will date and initial the appropriate part of the "MPF and AFO Distribution" block of the AF Form 3070 (or of the AF Form 366 or 3212, when applicable). (T-1)

6.5.1.5. The original record (and two complete copies for officer cases) directly to the SJA for the officer exercising general court-martial convening authority, after providing the record to the MPF and AFO and noting the date of receipt. (T-1) File the receipted copy of AF Form 1373 as prescribed in paragraph 6.16.

6.5.1.6. In cases involving colonel-selects and above, one copy of the record and all supporting documents to the member's commander for forwarding IN ACCORDANCE WITH AFI 90-301. (T-1) See paragraph 1.2.1.1. In all cases where the incident was investigated by Air Force Office of Special Investigations or Security Forces, provide the investigating office with sufficient information on final disposition to fulfill their respective reporting requirements.

**6.6. Action by the Military Personnel Flight (MPF) and Accounting and Finance Office (AFO).** The MPF and AFO, on receiving the record, acknowledges receipt on a copy of the AF Form 1373, returns this form to the servicing SJA and takes appropriate actions.

**6.7. Action by the GCMCA SJA.** The GCMCA SJA or designated attorney performs an administrative supervisory review on behalf of the GCMCA and returns legally deficient proceedings for correction. The reviewing attorney signs and dates the "GCMCA SJA Administrative Supervisory Review" block of the AF Form 3070 (or of the AF Form 366 or 3212, when applicable) when the record is in compliance with AFI 51-202 and sends a copy of it to the servicing SJA.

### ***Section 6C—Filing of the Original Record on Nonjudicial Punishment Proceedings***

**6.8. Procedures.** The GCMCA SJA sends the original NJP action to one of the addresses listed in paragraphs 6.8.1 through 6.8.4 for filing in the master personnel record group. For officers and NCOs in the grade of E-6 and above, simultaneously forward the original memorandum regarding the final decision to file or not file the NJP action in the selection record, including required attachments, with the original NJP action. See paragraph 4.8.

6.8.1. For Active Duty Members and Reservists on Extended Active Duty (as defined in Attachment 1):

6.8.1.1. For general officers, send to AF/DPG, 1040 Air Force Pentagon, Washington, DC 20330-1040. Also send one copy to the custodian of the command selection record group. See AFI 36-2608. If the officer is a member of a tenant command from another MAJCOM, send a copy to that MAJCOM's SJA.

6.8.1.2. For colonels or selectees, send to AF/DPO, 1040 Air Force Pentagon, Washington, DC 20330-1040. Also send one copy to the custodian of the command selection record group. See AFI 36-2608. If the officer is a member of a tenant command from another MAJCOM, send a copy to that MAJCOM's SJA.

6.8.1.3. For the following personnel, send to HQ AFPC/DP1ORM, 550 C Street West, Joint Base San Antonio-Randolph, TX 78150 and to the custodian of the command selection record group, as applicable:

6.8.1.3.1. Officers in the rank of lieutenant colonel or below (not colonel-selects); and

6.8.1.3.2. All enlisted personnel below the rank of CMSgt (and CMSgt-selects).



6.8.1.4. For CMSgts or selectees, send to AF/DPE, 1040 Air Force Pentagon, Washington, DC 20330-1040.

6.8.2. For Reservists not on Extended Active Duty, send the original to HQ ARPC/DPTARA, 18420 E. Silver Creek Ave. Bldg. 390, MS 68, Buckley AFB, CO 80011.

6.8.3. For ANG members, send to the National Guard Bureau, Air National Guard Readiness Center, Office of the Chief Counsel, 3501 Fetchet Avenue, Suite 431, Joint Base Andrews, MD 20762-9615. Forward a copy of the ANG member's Title 10 orders with the NJP. The Office of the Chief Counsel serves as a central collection point for these actions and will notify the specific State Adjutant General concerned and will determine ultimate disposition of the record.

6.8.4. For cases involving USAFA Cadets, send all records to HQ USAFA/DPY, 2360 Vandenberg Drive, Suite 3C24, USAF Academy, CO 80840-8720. Upon commissioning, these records will be forwarded to the officer master personnel record group, AFPC/DP1ORM, 550 C Street West, Joint Base San Antonio-Randolph, TX 78150-4723.

6.8.5. NJP correspondence relating to Air Force members for offenses that occur while on inactive duty for training (IDT) and UTA are processed through Air Force Reserve Command (AFRC) legal channels to HQ AFRC.

### ***Section 6D—Criminal Indexing Required***

**6.9. Criminal History Record Data and Fingerprint Collection.** The Air Force, through AFOSI and Security Forces, must submit offender criminal history record data and fingerprints to the Federal Bureau of Investigation (FBI) when there is probable cause to believe an identified individual committed a qualifying offense. (T-0) See DoDI 5505.11; 28 Code of Federal Regulations (C.F.R.) Part 20; 28 U.S.C. § 534. Criminal history record information reported includes identifiable descriptions of individuals; initial notations of arrests, detentions, indictments, and information or other formal criminal charges; and any disposition arising from any such entry (e.g., acquittal, sentencing, NJP; administrative action; or administrative discharge). This final disposition includes the imposition of NJP. See paragraph 6.12.

6.9.1. **Qualifying Offenses.** Qualifying offenses are listed in DoDI 5505.11.

6.9.2. **Probable Cause Requirement.** Fingerprints and criminal history data will only be submitted where there is probable cause to believe that a qualifying offense has been committed and that the person identified as the offender committed it. The collection of fingerprints under this paragraph does not require a search authorization or consent of the person whose fingerprints are being collected.

6.9.3. **SJA Coordination Requirement.** The law enforcement agency (e.g., AFOSI or Security Forces) coordinates with the SJA or government counsel to determine whether the probable cause requirement is met for a qualifying offense. See paragraphs 6.9.1 and 6.9.2. The SJA or government counsel must ensure they understand the applicable indexing requirements in order to advise AFOSI or Security Forces for purposes of criminal history indexing. (T-0)

6.9.4. **Process for Submission of Criminal History Data** . After the probable cause determination is made, the investigating agency (e.g., AFOSI or Security Forces) submits the required data to the FBI in accordance with DoDI 5505.11.

6.9.5. **Final Disposition Requirement.** The final disposition is submitted by AFOSI or Security Forces for each indexed offense. (T-0) AFOSI or Security Forces, whichever is applicable, obtains the final disposition data from the legal office responsible for advising on disposition of the case (generally the servicing base legal office). In the case of NJP, the legal office must, upon completion of the supervisory SJA review, promptly forward the completed AF Form 3070, 3212 or 366 to the local AFOSI detachment, Security Forces, and AFOSI/XI for inclusion of the final disposition. (T-1) See paragraph 6.12.

**6.10. Deoxyribonucleic Acid (DNA) Collection.** The Air Force, through AFOSI and Security Forces, collects and submits DNA for analysis and inclusion in the Combined Deoxyribonucleic Acid Indexing System, through the U.S. Army Criminal Investigative Laboratory, when there is probable cause to believe an identified individual committed a qualifying offense. (T-0) See DoDI 5505.14; 28 C.F.R. Part 20; 28 U.S.C. 534. See AFI 51-201, Chapter 15 and DoDI 5505.14 for required SJA coordination, various timelines for submission of DNA and processing requirements. **Note:** As commanders conducting commander-directed investigations or other informal inquiries are required to coordinate with Security Forces for collection of DNA where required under DoDI 5505.14, SJAs must ensure commanders conducting commander-directed investigations or other informal inquiries are briefed on their responsibilities under DoDI 5505.14. (T-1)

**6.11. Firearms Possession Prohibited.** 18 U.S.C. § 922 prohibits any person from selling, transferring or otherwise providing a firearm or ammunition to persons they know or have reasonable cause to believe fit within specified prohibited categories as defined by law. 18 § U.S.C. 922(g) further prohibits any person that fits within specified prohibited categories from possessing or obtaining a firearm. Some firearms prohibitors (e.g., Lautenberg Amendment violations) may trigger prohibitions on the possession of a firearm for the purpose of carrying out official duties (e.g., force protection mission, deployments, law enforcement, etc.). See AFI 51-201, Section 15D for required SJA coordination.

6.11.1. **Categories of Prohibition.** Categories of prohibition are listed at 18 U.S.C. § 922(g). **Note:** For purposes of NJP, the prohibition will most commonly be triggered where an Air Force member has received NJP for use, possession, distribution, introduction, manufacture, or diversion of a controlled substance. See 27 C.F.R. 478.11. The prohibition may also be triggered as a result of violation of a civilian protective order issued by a court. See 18 U.S.C. § 922(g)(8). See also AFI 51-201, Chapter 15, for further information.

6.11.2. **Final Disposition Requirement.** Final disposition of investigated charges must be forwarded to AFOSI and Security Forces to ensure a firearms prohibition is accurately recorded in the National Instant Criminal Background Check System (NICS). (T-0) The final disposition data is obtained from the legal office responsible for advising on disposition of the case (generally the servicing base legal office). In the case of NJP, the legal office must, upon completion of the supervisory SJA review, promptly forward the completed AF Form 3070 (or AF Form 366 or 3212, when applicable) to the local AFOSI detachment, Security Forces, and AFOSI/XI for inclusion of the final disposition. (T-1) See paragraph 6.12. **Note:** While imposition of NJP may not trigger a prohibition under 18 U.S.C. § 922, NJP for qualifying offenses must still be forwarded to ensure disposition data is correct. (T-1) See paragraph 6.9.

**6.12. Distribution of the Air Force Form 3070 for Criminal Indexing.** In cases involving qualifying offenses which require criminal indexing, the SJA sends a copy of the final AF Form 3070 (or AF Form 366 or 3212, when applicable) to the local AFOSI detachment, local Security Forces (SFS/S2I), and the Air Force Indexing Cell for final disposition. (T-1) See 18 U.S.C. § 922; DoDI 5505.11, and DoDI 5505.14.

6.12.1. This requirement applies to any case for which the service member receiving NJP was investigated for an offense that requires criminal indexing or DNA submission under DoDI 5505.11, DoDI 5505.14, or 18 U.S.C. § 922. The SJA must consult with the investigating agency (AFOSI or Security Forces) or commander, in the event the investigation was a command-directed investigation or informal inquiry, to determine when a member has been investigated for such an offense. (T-1)

6.12.2. In the event a service member received NJP for an offense that requires indexing but there was no law enforcement investigation, the SJA must forward the completed AF Form 3070 (or AF Form 366 or 3212, when applicable) to the local AFOSI detachment, local Security Forces Reports & Analysis (SFS/S2I), and the Air Force Indexing Cell for final disposition. (T-1)

6.12.3. **Electronic Submission Preferred.** In addition to promptly submitting the required documents discussed in paragraph 6.12 to the local AFOSI detachment and local Security Forces unit, these documents should be submitted to the Air Force Indexing Cell electronically to ensure timely processing. Documents should be submitted to [AFOSI.XIAFCriminalIndexPM@us.af.mil](mailto:AFOSI.XIAFCriminalIndexPM@us.af.mil) and may be submitted as attachments or via other secure method.

### *Section 6E—Effect of Errors in Nonjudicial Punishment Proceedings*

**6.13. Effect of Errors.** See MCM, Part V, paragraph 1.i. An NJP proceeding is not legally sufficient if it contains an error that materially prejudices a substantial right of the member.

6.13.1. If such an error exists but is discovered prior to forwarding NJP to the superior authority, the imposing commander may either withdraw or set aside the Article 15, and may reinstate NJP action. If such an error exists and is discovered after the NJP is forwarded to the superior authority and it cannot be remedied within the same proceeding, the appropriate NJP authority sets aside the defective NJP action. In either case, a new action may be initiated but any punishment imposed as a result of an additional proceeding may be no more severe than that originally imposed. See MCM, Part V, paragraph 7f(3).

6.13.2. If a material error exists and can be remedied within the same proceeding without prejudicing the member's rights, reflect the correction, whenever possible, as a pen and ink change on the form initialed and dated by the commander and the member. However, if a pen and ink change will not result in a clear and unambiguous corrected record, the commander, by indorsement to the form, should notify the member of the error and thoroughly explain the correction to the record. The member signs an acknowledgment to the commander's indorsement. The indorsement and acknowledgment become an attachment to the form.

6.13.3. Administrative or clerical errors and minor errors that do not materially prejudice a substantial right of a member do not require correction to make the NJP proceeding legally sufficient. However, such errors may be corrected with pen and ink changes in the manner described above.

***Section 6F—Disposition of Records of Nonjudicial Punishment Proceedings***

**6.14. Governing Directive .** The disposition of records of NJP is governed by the Air Force Records Disposition Schedule (RDS) located at <https://www.my.af.mil/afirms/afirms/afirms/rims.cfm>. Legal offices are authorized to destroy copies of NJP records after three years, or when no longer needed, whichever is later. See RDS, Table 51-3, Rule 27.

**6.15. Contents of Record.** The record of punishment consists of the AF Form 3070, the decision letter under AFI 36-2608 and if applicable, AF Forms 366, 3212, and any of their attachments. Examples of attachments are additional pages for punishment or statement of offenses, change of commander notifications (paragraphs 3.9.1 and 3.9.2), waivers of the statute of limitation (paragraph 3.12.4), withdrawals of request for trial (paragraph 3.21), and indorsements correcting errors requiring explanation (paragraph 6.13).

**6.16. Supporting Documentation.** Evidence and other written materials considered as a basis for imposing punishment or vacating a suspended punishment or submitted by the member in mitigation, extenuation, or defense or on appeal are supporting documentation and not part of the record. Supporting documentation also includes summaries of a member's oral presentation, initiating commander indorsements for appeals, and legal reviews for an appellate authority. File such evidence and other written materials in the office of the servicing SJA of the commander who initiated the NJP as attachments to the file copy of the action, except for AF Forms 1373. See RDS, Table 51-3, Rule 28. AF Forms 1373 are maintained in a single file separately from the Article 15 file, and in chronological sequence based on date of receipt.

***Section 6G—Wet Signature Required***

**6.17. Form Completion.** All NJP forms (AF Forms 3070, 3212 and 366) must be completed with blue or black ink and wet initials and signatures must be used. (T-1) Electronic initials and signatures are not authorized. Failure to obtain wet initials and signatures may render NJP legally insufficient. See AFI 33-360, paragraph 12.6.3.3.

JEFFREY A. ROCKWELL  
Lieutenant General, USAF  
The Judge Advocate General

**Attachment 1****GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

Manual for Courts-Martial, United States, 2019

Title 10 U.S.C. Section 802, *Persons subject to this chapter*

Title 18 U.S.C. §§ 921-22, *Unlawful Acts*

Title 27 C.F.R. § 478, *Commerce in Firearms and Ammunition*

Title 28 U.S.C. § 534, *Acquisition, preservation, and exchange of identification records and information*

Title 28 C.F.R. Part 20, *Criminal Justice Information Systems*

AFPD 51-2, *Military Justice, Individual Military Counsel, and Other Criminal Proceedings*, 31 August 2018

AFI 25-201, *Intra-Service, Intra-Agency, and Inter-Agency Support Agreements Procedures*, 18 October 2013

AFI 33-360, *Publications and Forms Management*, 1 December 2015

AFI 36-2502, *Enlisted Airman Promotion/Demotion Programs*, 12 December 2014

AFI 36-2604, *Service Dates and Dates of Rank*, 5 October 2012

AFI 36-2606, *Reenlistment and Extension of Enlistment in the United States Air Force*, 27 July 2017

AFI 36-2608, *Military Personnel Records System*, 26 October 2015

AFI 36-2907, *Unfavorable Information File (UIF) Program*, 26 November 2014

AFI 38-101, *Air Force Organization*, 31 January 2017

AFI 51-201, *Administration of Military Justice*, 8 December 2017

AFI 51-509, *Appointment to and Assumption of Command*, 14 January 2019

AFI 90-301, *Inspector General Complaints Resolution*, 28 December 2018

AFMAN 33-363, *Management of Records*, 1 March 2008

Air Force Core Doctrine, Volume 3, *Command*

Air Force Doctrine Document 2, *Organization and Employment of Aerospace Power*

DoDI 5505.11, *Fingerprint Card and Final Disposition Report Submission Requirements*, 30 March 2017

DoDI 5505.14, *Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations, Law Enforcement, Corrections, and Commanders*, 22 December 2015

Joint Federal Travel Regulations, current edition

Joint Publication 1, *Doctrine for the Armed Forces of the United States*

*United States v. Moore*, 32 M.J. 170 (CMA 1991)

### ***Prescribed Forms***

AF Form 3070A, *Record of Nonjudicial Punishment Proceedings (AB – SSgt)*

AF Form 3070B, *Record of Nonjudicial Punishment Proceedings (TSgt – CMSgt)*

AF Form 3070C, *Record of Nonjudicial Punishment Proceedings (Officers)*

AF Form 3070D, *Record of Nonjudicial Punishment Proceedings (TSgt – CMSgt) – Air National Guard Only*

AF Form 3070E, *Record of Nonjudicial Punishment Proceedings (Officers) – Air National Guard Only*

AF Form 366, *Record of Proceedings of Vacation of Suspended Nonjudicial Punishment*

AF Form 3212, *Record of Supplementary Action under Article 15, UCMJ*

### ***Adopted Forms***

AF Form 847, *Recommendation for Change of Publication*

AF Form 1373, *MPO DOCUMENT CONTROL LOG - TRANSMITTAL*

### ***Abbreviations and Acronyms***

**AF**—Air Force

**AFDW**—Air Force District of Washington

**AFI**—Air Force Instruction

**AFMAN**—Air Force Manual

**AFO**—Accounting and Finance Office

**AFRC**—Air Force Reserve Command

**AMJAMS**—Automated Military Justice Analysis and Management System

**ANG**—Air National Guard

**CC**—Commander

**CDI**—Commander Directed Investigation

**C.M.A.**—Court of Military Appeals

**DNA**—Deoxyribonucleic Acid

**DoDI**—Department of Defense Instruction

**DOR**—Date of Rank

**FBI**—Federal Bureau of Investigation

**GCMCA**—General Court-Martial Convening Authority

**IDT**—Inactive Duty Training

**MAJCOM**—Major Command  
**MCM**—Manual for Courts-Martial  
**MPF**—Manpower and Personnel Flight  
**MSS**—Mission Support Squadron  
**NCOIC**—Non-Commissioned Officer in Charge  
**NGB**—National Guard Bureau  
**NJP**—Nonjudicial Punishment  
**OPR**—Office of Primary Responsibility  
**R.C.M.**—Rule for Courts-Martial  
**RegAF**—Regular Air Force  
**RIP**—Record on Individual Personnel  
**SAFO**—Senior Air Force Officer  
**SFS**—Security Forces Squadron  
**SJA**—Staff Judge Advocate  
**SNCO**—Senior Non-Commissioned Officer  
**TDY**—Temporary Duty  
**UCMJ**—Uniform Code of Military Justice  
**UIF**—Unfavorable Information File  
**USAFR**—United States Air Force Reserve  
**U.S.C.**—United States Code  
**UTA**—Unit Training Assembly

### *Terms*

**Activity Outside the Air Force**—An organization or agency to which Air Force members are assigned or attached that is not part of the Air Force. They include, but are not limited to, Defense Agencies, DoD field activities, and consolidated units, such as consolidated flying units. While joint and combined organizations are not part of the Air Force, they are not considered "activities outside the air force" for the purpose of this instruction.

**Air Force unit**—A named or numbered military organization constituted by directives issued by HQ USAF. Air Force units include major commands, numbered air forces, wings, groups, squadrons, centers, direct reporting units, field operating agencies, and provisional units. See AFI 38-101. They also include deployable units formed from air expeditionary forces, such as air expeditionary wings, groups or squadrons, that are attached to an Air and Space Expeditionary Task Force or an in-place Numbered Air Force that has been directed by a MAJCOM to support a joint force commander. A duly constituted unit will have a commander who has assumed or been appointed to command in accordance with AFI 51-509.

**Commander**—A commissioned officer who has assumed or been appointed to command of an Air Force organization IN ACCORDANCE WITH AFI 51-509.

**Extended Active Duty**—A tour of Title 10 active duty, other than active duty for training or temporary tours of active duty, performed by a member of an Air Reserve component that is normally for a duration in excess of 90 days. Strength accountability for persons on extended active duty changes from Air Reserve Component to the active force.

**General Court-Martial Convening Authority**—Convening authority authorized to convene general courts-martial. See Article 22, UCMJ.

**Joint Force**—A joint force is composed of significant elements, assigned or attached, of two or more Military Departments operating under a single commander authorized to exercise operational control over the force to accomplish an assigned mission. Joint forces are established at unified commands, specified commands, subordinate unified commands, and joint task forces. Joint forces organizationally consist of a joint force commander, a joint staff organization, and Service component commands. See Joint Publication 1 and Air Force Doctrine Document 2, Organization and Employment of Aerospace Power.

**Next Superior Authority**—For purposes of nonjudicial punishment under Article 15, UCMJ, the next superior authority is generally the immediate Air Force commander superior to the officer who imposed the punishment. The next superior authority must be superior or equal in grade to the commander who imposed punishment. See AFD 51-2.

**Officer**—A commissioned officer or United States Air Force Academy cadet.

**Principal Assistant**—The commander's principal assistant is the officer who would assume command in the event of the commander's death, prolonged absence, or disability, or the vice or deputy commander of the organization. However, if that officer is located at another station, the commander may delegate authority to the officer on the commander's station who is next eligible to assume command. Principal assistants must be military officers to exercise nonjudicial punishment authority and may impose only the amount of punishment authorized for their grades. See AFD 51-2.

**Special Court-Martial Convening Authority**—Convening authority authorized to convene special courts-martial. See Article 23, UCMJ.



## Attachment 2

## SAMPLE FORMAT FOR NOTIFICATION OF CHANGE OF COMMANDER

Figure A2.1. Sample Format For Notification of Change of Commander.

MEMORANDUM FOR [GRADE/NAME OF MEMBER]	(Date)
FROM: _____/CC	
SUBJECT: Change of Commander for Nonjudicial Punishment Proceedings	
<p>1. On _____, my predecessor in command notified you of (his/her) intent to impose nonjudicial punishment under Article 15, UCMJ, upon you for the offense(s) of _____. As the successor in command, I will be the commander who decides whether to impose the punishment, and if so, its terms.</p> <p>2. [ : Use this paragraph only if the member has already made their elections in item 3 of AF Form 3070] On _____, you chose to accept nonjudicial punishment proceedings for (this offense)(these offenses) and to waive your right to trial by court-martial. I am providing you an additional opportunity to decide whether you will accept nonjudicial punishment proceedings or demand trial by court-martial. Indicate your choice below.</p> <p>3. Acknowledge receipt of this letter by signing the indorsement below and returning this document by _____ hours on _____ (Date), which is 3 duty days from today.</p>	
[TYPED NAME, GRADE], USAF Commander	
1st Ind, (Grade/Name of Member)	(Date)
To: _____/CC	
I [accept nonjudicial punishment and waive my right to trial by court-martial] [do not accept nonjudicial punishment proceedings and demand trial by court-martial].	
[TYPED NAME, GRADE], USAF	

## Attachment 3

## FORMAT OF NONJUDICIAL PUNISHMENTS

Figure A3.1. Format of Nonjudicial Punishments.

The following are examples of the appropriate format for punishment language. See paragraph 3.14.

1. Reduction to the grade of \_\_\_\_\_, with new date of rank of \_\_\_\_\_. (See Note 1)
2. Forfeiture of \$ \_\_\_\_\_ pay. [If 1 month] (See Note 2)
3. Forfeiture of \$ \_\_\_\_\_ pay per month for 2 months. (See Note 2)
4. \_\_\_\_\_ days correctional custody.
5. Arrest in quarters for \_\_\_\_ days.
6. Restriction to the limits of (state the area) for \_\_\_\_ days.
7. \_\_\_\_\_ days extra duty.
8. Reprimand. No special language is required. The reprimand may be placed on the form or on an attachment.
9. If any of the above punishments are suspended:  
\_\_\_\_\_, suspended through (provide date), after which time it will be remitted without further action, unless sooner vacated.
10. Additional guidance for suspended punishments:
  - a. Sample of two grade reduction with one grade suspended: "Reduction to the grade of Airman, with reduction below Airman First Class suspended until \_\_\_\_\_, after which time it will be remitted without further action, unless sooner vacated. The new date of rank for Airman First Class is \_\_\_\_\_."
  - b. Sample of suspension of portion of the forfeitures imposed: "Forfeiture of \$\_\_\_\_\_ pay per month for two months. That portion of the forfeitures in excess of \$\_\_\_\_\_ pay per month for two months is suspended until \_\_\_\_\_, after which time it will be remitted without further action, unless sooner vacated."

c. Sample of conditional suspension: "Reduction to the grade of Senior Airman, suspended until \_\_\_\_\_, after which time it will be remitted without further action unless sooner vacated. In accordance with MCM, Part V, paragraph 6a(4), this suspension is subject to the additional condition of [(your attending the Alcoholics Anonymous meetings at \_\_\_\_\_ once per week during the period of \_\_\_\_\_ to \_\_\_\_\_) or (your making restitution to \_\_\_\_\_ in the amount of \$\_\_\_\_\_ by \_\_\_\_\_)]. (See Note 3)

**NOTES:**

1. If the reduction in grade is suspended, a new date of rank is not established.
2. State forfeitures in whole dollar amounts. Also, if punishment includes a reduction, whether or not suspended, the forfeitures must be based on the grade to which reduced. See MCM, Part V, paragraph 5c(8). (T-0)
3. The end date for completing the condition must be a date within the period of suspension. (T-0) The condition must be clearly stated and not subject to interpretation. See paragraph 5.4.4. (T-0)

## Attachment 4

**SAMPLE FORMAT FOR REQUEST FOR SUSPENSION, MITIGATION, REMISSION,  
OR SET ASIDE OF NONJUDICIAL PUNISHMENT**

**Figure A4.1. Sample Format For Request For Suspension, Mitigation, Remission, or Set Aside of Nonjudicial Punishment.**

MEMORANDUM FOR _____/CC (See Note 1)	(Date)
FROM: [GRADE/NAME OF MEMBER]	
SUBJECT: _____ of Nonjudicial Punishment (See Note 2)	
<p>1. On _____, the Commander, _____, imposed nonjudicial punishment upon me, consisting of (reduction to the grade of _____ and restriction to _____ Air Force Base for __ days). [(No part of the punishment) or (The portion of the punishment relating to _____)] was suspended.</p>	
<p>2. I request [(all the punishment) (the unserved portion of the punishment) or (the unserved portion of the punishment relating to _____) or (_____)] be suspended.</p>	
or	
<p>2. I request that [(all the punishment) (the unserved portion of the punishment) (the portion of the punishment relating to reduction) or (_____)] be mitigated to [(a forfeiture of (\$_____) or (_____)].</p>	
or	
<p>2. I request that [(the unexecuted portion of the punishment) or (_____)] be remitted (effective _____).</p>	
or	
<p>2. I request that [(the entire nonjudicial punishment action) or (that part of the nonjudicial punishment that called for _____)] be set aside.</p>	
<p>3. My reasons for requesting this action are (as follows:) (attached.)</p>	
[NAME/GRADE OF MEMBER], USAF	
Attachments: (See Note 3)	
<b>NOTES:</b>	
<p>1. Use through address to send through intermediate channels, if necessary.</p>	

2. Insert "Suspension," "Mitigation," "Remission," or "Set Aside" as appropriate.
3. Indicate any attachments. If this letter is sent to a location different from that where punishment was imposed, add as an attachment the AF Form 3070, and any other pertinent information which may assist in making a decision.